

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 2724 of 2015

Date of Decision: 24.04.2015

Om Parkash and others

.....Petitioners

Vs.

M/s Ganga Developers Private Limited.

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sanjay Vij, Advocate,
for the petitioners.

SABINA, J.

Petitioners have filed this petition challenging the order dated 15.04.2015, whereby application moved by the petitioners for permission to amend the written statement, was dismissed.

Learned counsel for the petitioners has submitted that the amendment now sought by the petitioners was very necessary for the just decision of the case. In fact, the land in question qua which the agreement to sell had been executed, has been acquired by the State and by way of amendment, petitioners want to incorporate the said fact in their written statement. Learned counsel for the petitioners has further submitted that acquisition proceedings had commenced after the written statement had been filed by the petitioner. Learned counsel for the petitioners has placed reliance on decision of the Hon'ble Supreme Court in case titled as ***Baldev Singh and others*** vs. ***Manohar Singh and another*** (2006) 6 SCC 498,

wherein it was held that delay of three years in filing the application for amendment of the written statement could not be a ground for rejection of the same, when no serious prejudice was shown to have been caused to the plaintiff.

Order 6 Rule 17 of the Civil Procedure Code, 1908 (for short 'CPC') reads as under:-

Amendment of pleadings:-

“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

Thus, as per the above provision, parties can be permitted to amend their pleadings but no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence, the parties could not have raised the matter before the commencement of trial.

In the present case, respondent has filed suit for recovery in pursuance of agreement to sell dated 17.03.2008. After closing their evidence, petitioners want to incorporate the plea that land in question had been acquired by the State. In the present case, DW 1 had duly stated in his cross-examination that the suit land had been acquired but at that stage, no effort was made by the petitioners to amend the written statement. Rather

the petitioners after closing their evidence moved an application for permission to amend the written statement. In view of Order 6 Rule 17, CPC, learned trial Court had rightly dismissed the application, filed by the petitioners, seeking amendment of the written statement.

I have gone through the judgment relied upon by learned counsel for the petitioners but the same fails to advance the case of the petitioners as it is based on different facts.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

April 24, 2015
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