

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3308 of 2015
Date of Decision: 15.5.2015.**

Amrit Pal Singh and another

.....Petitioners

Versus

Amrik Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.K.Manchanda, Advocate
for the petitioners.

SABINA, J.

Petitioners have filed this petition under Article 227 of the Constitution of India challenging the order dated 24.4.2015 (Annexure P-4) whereby application moved by the petitioners under Order 6 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short) for permission to amend the plaint, was dismissed.

I have heard the learned counsel for the petitioners and have gone through the record available on the file carefully.

Order 6 Rule 17 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, the Court has ample power to allow either of the party to amend its pleadings which are necessary for the purpose of determining the real question in controversy between the parties. However, as per the proviso the application for amendment shall not be allowed after the trial has commenced.

Petitioners have filed the suit for declaration. Now the case is listed before the Trial Court for rebuttal evidence of the petitioners, if any, and arguments. At this stage, petitioners moved the application for permission to amend the plaint and by way of amendment, petitioners want to take up the plea that fraud had been committed by defendant No. 1 with Kartar Singh. The learned Trial Court rightly dismissed the application as the Will in question is dated 24.1.2003 and the plea of fraud was liable to be taken up by the petitioners at the time of filing of the suit. Since the amendment was sought by the petitioners at a belated stage, the same was liable to be disallowed.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

May 15, 2015
Gurpreet