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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.3415 of 2015

Date of decision: June 29, 2015

Balkar Singh and others

.....Petitioners

Versus

Dalip Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sarbjit Singh, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 15.01.2015, whereby application moved by the petitioners for permission to amend the plaint, was dismissed.

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

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

“17. 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 above provision, parties can be permitted to amend their pleadings before the commencement of the trial.

However, no application for amendment of pleadings shall be allowed

after the trial has commenced unless the Court comes to the conclusion that inspite of due diligence, parties could not have raised the matter before the commencement of the trial.

Petitioners have filed suit for permanent injunction. Petitioners moved the application under Order 6 Rule 17 CPC for permission to amend the plaint after the trial had commenced. By way of amendment, petitioners want to take up the plea that they had laid underground pipeline from the electric motor of Gurdeep Singh and the defendants had no concern with the suit land or its possession. The plea now sought to be taken by the petitioners was available with them at the time of filing of the suit. There is nothing on record to suggest that despite due diligence, the plea now sought to be taken by the petitioners could not be taken by them at the time of filing of the suit. Since the trial had already commenced, the learned trial Court rightly dismissed the application moved by the petitioners for permission to amend the plaint, though, for different reasons.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

June 29, 2015

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