

**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Revision No. 3522 of 2015  
Date of Decision: 21.5.2015.**

Lalita Rani

.....Petitioner

Versus

The Sangam Co-op. House Building  
Society Ltd. and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. Deepak Basatia, Advocate  
for the petitioner.

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**SABINA, J.**

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 7.5.2015 whereby application moved by the petitioner under Order 1 Rule 10 and Order 6 Rule 17 of the Code of Civil Procedure, 1908, was dismissed.

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

Petitioner has filed suit for mandatory injunction directing the defendants to return the original title deed to her on account of repayment of the loan. When the case was fixed for evidence of the defendants, petitioner moved the application for impleading Tara Chand as defendant No. 3 and had further prayed that she may be permitted to amend the plaint. Case of the

petitioner is that Tara Chand was the Manager of the society in question. In the year 2010, Tara Chand represented himself as Manager of the society and the petitioner paid the entire outstanding loan amount to Tara Chand on 14.7.2010 and 'no due certificate' was issued by him in this regard. However, when Tara Chand appeared in the witness box, he denied that he had issued any 'no due certificate' in favour of the plaintiff and also stated that he was not the Manager of the society on 14.7.2010.

Petitioner had taken loan from the society and the case of the petitioner is that she has returned the entire loan amount and 'no due certificate' had been issued to her by the society. In this regard, petitioner is required to establish by leading evidence that she has paid all the installments. So far as Tara Chand is concerned, he appeared in the witness box as DW-3. It has been noticed by the Trial Court that the said witness is yet to be cross-examined by the petitioner and petitioner can put all the relevant questions to the said witness in his cross-examination to establish her plea. Further, it has been noticed by the Trial Court that the husband of the plaintiff-petitioner appeared in the witness box as PW-2 and has admitted that he was the member of the society when the loan was advanced to his wife. In these circumstances, the learned Trial Court rightly held that the husband of the petitioner was, thus, presumed to be having the knowledge as to whether Tara Chand was the Manager of the society or not. Thus, the learned Trial Court rightly held that Tara Chand could not be termed as a necessary party to the suit.

Since the application moved by the petitioner for impleading Tara Chand as a defendant was dismissed, the

amendment of the plaint sought by the petitioner in this regard, was liable to be declined. It has been further noticed by the Trial Court that the fact that Tara Chand had received entire money from the plaintiff and had received 'no due certificate' in her favour, was stated by the petitioner in her affidavit. Thus, the facts now sought to be brought on record by way of amendment, were already in the knowledge of the plaintiff-petitioner at the time of filing of the suit. Hence, no amendment of the plaint could be allowed at a belated stage. Further, there is nothing on record to suggest that despite due diligence, petitioner could not bring on record the averments now sought to be pleaded by her by way of amendment of the plaint at the time of filing of the suit.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)  
JUDGE**

**May 21, 2015**  
**Gurpreet**