

112

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

CR No.4423 of 2015

Date of decision: July 15, 2015

Steel Strips Ltd.

.....Petitioner

Versus

Punjab State Electricity Board and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Gurminder Singh, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 03.07.2015, whereby application moved by the petitioner for permission to amend the written statement, was dismissed.

Learned senior counsel for the petitioner has submitted that plea now sought to be raised by way of amendment, was duly incorporated in the contract. However, due to inadvertence, the plea now sought to be taken by way of amendment, could not be taken at the time of filing of the written statement.

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.

Respondent-Electricity Board has filed suit for recovery against the petitioner. Petitioner appeared before the trial Court on 24.10.2000 and filed its written statement in July, 2014. Plaintiffs concluded their evidence on 08.04.2015. Thereafter, petitioner took five opportunities including last opportunity to lead its evidence, but had failed to conclude its evidence. On 26.05.2015, petitioner moved an application for permission to amend the written statement. By way of amendment, petitioner wants to incorporate the plea that when 10.5 Kilometers long electrical line was laid for the petitioner-company, then the expenses to the tune of

₹63,00,000/- were borne by the petitioner-company, and the said amount was refundable. The plea now sought to be raised by the petitioner was well within its knowledge at the time of filing of the written statement. However, due to reasons best known to the petitioner, the said plea was not incorporated in the written statement. There is nothing on record to suggest that despite due diligence, the plea now sought to be taken, could not be raised by the petitioner at the time of filing of the written statement. Hence, the learned trial Court had rightly dismissed the application moved by the petitioner for permission to amend the written statement.

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

Dismissed.

However, anything observed by the trial Court in the impugned order dated 03.07.2015 shall have no bearing on the merits of the case.

**(SABINA)
JUDGE**

July 15, 2015

m.singh