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

CR No.4563 of 2015

Date of decision: July 23, 2015

Arun Khanna

.....Petitioner

Versus

Anil Kumar Khanna and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ashish Chaudhary, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 13.05.2015.

Learned counsel for the petitioner has submitted that the trial Court has erred in treating the application moved by the petitioner seeking a direction to the plaintiff to produce on file true copy of the jamabandi for the year 2005-2006, as written statement. In fact, petitioner had never instructed his counsel to seek amendment of the written statement.

In the present case, respondent No.1 has filed suit for declaration to the effect that he had 1/4th share in the suit property left by his father Ram Prakash Khanna. Plaintiff and defendants are real brothers. A perusal of Annexure P-3 reveals that the petitioner, who is impleaded as defendant No.3 in the suit, had filed his written statement. By way

of the said written statement, petitioner had prayed that plaintiff be directed to file true copy of the jamaandi for the year 2005-2006 and the suit was liable to be dismissed for exemplary costs. The plea taken by the petitioner in the written statement is that Ram Parkash Khanna had already disposed of his entire property mentioned in the suit during his lifetime. Annexure P-3 cannot be treated as an application seeking direction to Anil Kumar Khanna to file true copy of jamabandi. Rather from the prayer clause, it is evident that the petitioner had also prayed that the suit filed by the plaintiff be dismissed. Annexure P-3 was described as written statement by the counsel for the petitioner. The said written statement is dated 27.07.2012. Vide order dated 05.02.2013, application moved by the petitioner seeking amendment of the written statement, was dismissed. Hence, the application (Annexure P-3) moved by the petitioner for permission to file written statement was liable to be dismissed. The learned trial Court had thus rightly dismissed the application moved by the petitioner for permission to file written statement.

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

Dismissed.

**(SABINA)
JUDGE**

July 23, 2015

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