

CR No.4333 of 2014

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

**CR No.4333 of 2014
Date of decision:06.02.2015**

Kewal Krishan

...Petitioner

Versus

Gurdip Singh and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. V.K.Sandhir, Advocate,
for the petitioner.

Mr. N.S.Dhaliwal, Advocate,
for respondent no.1.

Mr. Rakesh Gupta, Advocate,
for respondent nos.2 and3.

Rakesh Kumar Jain, J.

The defendant-petitioner is aggrieved against the order dated 28.05.2014, dismissing his application filed under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (here-in-after referred to as the "CPC") for amendment of the written statement.

In short, the respondents filed a suit for possession by way of redemption of a shop on payment of ₹1,50,000/- or on payment of any amount which the Court may adjudge.

In the written statement filed by the petitioner through Shri Faqir Singh, Advocate, the ownership of plaintiffs no.2 and 3 over the

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property in dispute was admitted but in the application for amendment, it is alleged that the defendant had earlier filed a suit for permanent injunction against the present plaintiffs and in that suit, he denied execution, legality and validity of the sale deed, alleged to have been executed in favour of plaintiff no.2 and 3, but the said suit was withdrawn. It is further urged that the defendant is an illiterate person who has studied upto 7th standard. His previous advocate filed the written statement against his instructions and admitted the facts of the plaint which were actually never admitted by him. He had neither signed nor verified the written statement in accordance with law. Thus, the prayer was made for amendment of the written statement after engaging a new advocate to deny the averments made in the plaint.

The trial Court dismissed the application on the ground that the petitioner cannot amend the written statement on the ground that his earlier advocate had made wrong averments therein as it is observed that there would be no end to it as the petitioner may blame the subsequent advocate and again ask for amendment in future.

Counsel for the petitioner, during the course of argument, has mainly highlighted the original written statement available on record as Annexure P-2 and has pointed out that on the written statement, at page 43 of the paper book, the signatures of the petitioner are in such a manner which suggests that the written statement was prepared by Shri Faqir Singh, Advocate on the blank signed papers.

For a moment, I was impressed by the argument raised by learned counsel for the petitioner but when learned counsel for the

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respondents produced before me a certified copy of the plaint of the suit filed for permanent injunction by the present petitioner and also drew my attention to the last page of the plaint where the signatures were appended by the petitioner in the same manner as were there in the written statement (Annexure P-2), and there is no allegation against Shri Faqir Singh, Advocate of preparation of the plaint without his instructions and that it has not been signed and verified in accordance with law, it does not lie in the mouth of the petitioner now to retract from the written statement which he had filed through the same advocate, while levelling allegation against him that he had erroneously and unauthorizedly admitted the facts contained in the plaint.

In view thereof, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.

February 06, 2015
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(Rakesh Kumar Jain)
Judge