

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

**CR No. 4553 of 2013
Date of Decision : 4.8.2015**

Tarlochan Singh and anotherPetitioners

Versus

Sukhminder SinghRespondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present:- Mr. Amarjit Markan, Advocate, for the petitioners

Mr. Mandeep Singh Dhaliwal, Advocate, for the respondent

M.M.S. Bedi, J.

Vide impugned order dated 8.7.2013, an application filed by the defendant/petitioners to amend the written statement at a stage when the issues have not been framed, has been dismissed.

A perusal of the impugned order indicates that the defendant/petitioners sought to incorporate a counter claim in the written statement by adding new para No. 8A to the effect that the defendants intended to plead that in connivance with the revenue authorities, wrong entry has been made in the jamabandi, pertaining to the status of Sukhminder Singh as gair marusi. It further indicates that the reason for declining the amendment is that the fact which were earlier known to the defendants had to be incorporated in the written statement and that such facts cannot be permitted to be added in the written statement by way of amendment. The approach of the trial Court appears to be wrong on the

face of it as in the present case, amendment has been sought before the commencement of the proceedings. No prejudice would be caused to the plaintiff/respondent in case amendment is permitted in the written statement, at a stage when issues have not been framed.

This revision petition is allowed. The impugned order is hereby set aside and it is ordered that the defendant/petitioners are held entitled to amend the written statement, however, subject to payment of costs of ₹ 5000/-to the plaintiff/respondent.

Amended written statement along with proposed counter claim, already placed on record, will be made part of the record, without prejudice to the right of the plaintiff/respondent to file replication and written statement to the counter claim.

(M.M.S. BEDI)
JUDGE

4.8.2015
Ashwani