

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

**CR No.6121 of 2015 (O&M)
Date of decision: 17.09.2015**

Dalbir Singh and another ... Petitioners

Vs.

Jasbir Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Vikas Bali, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

Challenge in the present petition is to the impugned order dated 18.08.2015, whereby, application under Order 6 Rule 17 CPC, (Annexure P-3), seeking amendment of the written statement, has been dismissed.

Mr. Vikas Bali, learned counsel appearing on behalf of the petitioner-defendants submits that necessity had arisen for amendment in the written statement, when the case was at the stage of defendants' evidence. No prejudice/harm would be caused to the plaintiffs as they would have a right to rebut the same by way of replication and cross examining the witnesses. The facts sought to incorporate, could not be incorporated on account of fault of counsel

in trial Court and parties should not be made to suffer.

I have heard learned counsel for the petitioner/defendants and appraised the paper book.

From the perusal of the application, Annexure P-3, there is no averment with regard to the expression “despite exercise of due diligence” which is essential ingredient of law to seek amendment. The facts, which are sought to be incorporated in the written statement, were in the knowledge of the petitioner-defendants at the time, when the written statement was filed. The plea taken in the application that owing to the negligence of the counsel, aforementioned amendments could not be incorporated, the trial Court has rightly relied upon the judgment of this Court rendered in **Sunil and others vs. Jai Parkash and another 2013(2) CivCC 105** to contend that for such reasons amendment sought cannot be permitted.

I do not find any illegality and perversity in the impugned order and the same cannot said to be without jurisdiction.

Accordingly the revision petition stands dismissed.

However, petitioner/defendants would be at liberty to state aforementioned averments in the examination-in-chief, which would be examined at the final stage of the suit.

(AMIT RAWAL)
JUDGE

September 17, 2015
savita