

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

CR No.756 of 2015

Date of Decision:-02.02.2015

Amarjit Kaur.

.....Petitioner.

Versus

The Chairman Akal Academy & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Manu K. Bhandari, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Plaintiff is in revision aggrieved against the order dated 3.01.2015 (P-9) passed by learned Civil Judge(Jr. Divn.), Patiala whereby her application for amendment of plaint has been dismissed.

Learned Counsel for the petitioner has argued that the learned Court below has wrongly dismissed the application because the document which the petitioner intends to challenge by way of amendment was not in her knowledge initially at the time of filing of the suit and only came to her knowledge on 7.8.2014 and thus, the findings of the learned Court below to the effect that the petitioner was in knowledge of said document is clearly misconceived and thus liable to be set aside. It was further argued that the learned Court below ought to have taken into consideration the fact that the amendment was formal in nature and is necessary for determining the real controversy in question and thus, the prayer was made for allowing the

present civil revision.

After hearing learned Counsel for the petitioner and perusing the paper book this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

A perusal of the record reveals that learned trial Court while dismissing the application had taken into consideration the fact that the present suit was filed on 12.5.2010 seeking the relief of declaration to the effect that action on part of the defendant not to allow the plaintiff to resume her duties was illegal. Along with that plaintiff had also sought relief of mandatory injunction in this regard. The respondent/defendant had filed written statement on 16.11.2010 whereby the plea that the services of the plaintiff were terminated on 2.2.2009 was taken. The plaintiff had subsequently filed replication to the said written statement. Vide the present amendment the petitioner intends to challenge the order dated 2.2.2009 whereby her services were terminated. Under these facts and circumstances especially the perusal of the replication whereby the plaintiff had specifically denied that her services were not terminated as alleged by the defendant, it was imperative upon the petitioner to have sought amendment at that very stage i.e. on 16.11.2010 when for the first time, the order dated 2.2.2009 came to her knowledge. The argument of the learned Counsel for the petitioner that the petitioner came to know about the order on 7.8.2014 is falsified from the above mentioned facts.

Not only this it is apparent that the amendment which the petitioner is seeking is not formal in nature and in fact would change the nature of the entire suit and thus, the learned Court below had rightly dismissed the application.

Before parting with the judgment it would also be important to note here that the application for amendment was moved after the evidence had already begun and after a period of three years from the date of knowledge of the said order dated 2.2.2009. There is no due diligence on part of the petitioner and the amendment even otherwise is hit by the proviso to Order 6 Rule 17 CPC.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

February 02, 2015
Vinay