

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

**C.R. No. 7681 of 2015**

**Date of decision:- 18.12.2015**

Nagar Panchayat Bhadson

...Petitioner

Versus

Rameshwar Dass Puri

...Respondent

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present:- Mr. Vinish Singla, Advocate  
for the petitioner.

**RITU BAHRI J.**

Challenge in this petition is to order dated 19.10.2015 passed by learned Civil Judge (Jr. Divn.) Nabha, whereby the application under Order 6 Rule 17 CPC has been dismissed.

Plaintiff/respondent filed a suit for recovery of Rs.4,99,681.81 paise against the defendant-petitioner. After notice of the suit, the plaintiff led his oral as well as documentary evidence with regard to money spend and work done by him and all this record was got produced from the custody of the respondent.

Thereafter, the defendant/petitioner filed an application under Order 6 Rule 17 CPC sought to make necessary amendment in the written statement. The application filed by the petitioner has been dismissed by the Court below on the ground that the issues were framed on 09.05.2014 and the plaintiff/respondent closed his evidence on 02.03.2015 and since then

the present case is lingering for evidence of the defendant/petitioner and the petitioner has failed to conclude its evidence after availing 11 effective opportunities. While dismissing the application of the petitioner, it has been specifically observed that the proposed amendment was well within the knowledge of the petitioner at the time of filing of written statement and the fact sought to be inserted in the written statement is not a new fact that emerge during the pendency of the present suit and the petitioner has failed to show its due diligence as to why the proposed amendment was not sought earlier before the commencement of the trial.

Heard learned counsel for the petitioner.

Reference at this stage can be made to Order 6 Rule 17 CPC, which reads as under:-

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*"17) Amendment of Pleadings - The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the*

*commencement of trial."*

As per the above said rule, the Court may, at any stage of the proceedings, allow either party to alter or amend his pleadings in such a manner and on such terms as may be just. It also states that such amendments should be necessary for the purpose of determining the real question in controversy between the parties. The proviso enacts that no application for amendment should be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter for which amendment is sought before the commencement of the trial.

In the present case, the proposed amendment sought to be inserted by the petitioner was well within his knowledge before the commencement of the trial and the petitioner has failed to show its due diligence as to why the proposed amendment was not sought earlier before the commencement of the trial. The petitioner was only trying to delay the proceedings by filing the above mentioned application, as the whole evidence has been led by both the parties and the case was at its final stage.

No ground is made out to interfere in order dated 19.10.2015 passed by learned Civil Judge (Jr. Divn.) Nabha

The petition stands dismissed.

December 18, 2015  
G Arora

( **RITU BAHRI** )  
**JUDGE**

GAURAV ARORA  
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I attest to the accuracy and  
integrity of this document