

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

CR No. 95 of 2013 (O&M)

Date of decision: 16.11.2015

Lachman Dass

... Petitioner

versus

Savita Devi and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. J.K. Goel, Advocate for the petitioner.

Mr. Parminder Singh, Advocate for the respondents.

K.Kannan, J.

The revision is by the defendant who resisted an action for recovery of possession on a plea that there had been an agreement of sale in his favour and there was also a general power of attorney. His contention was that the person who had obtained a right as a purchaser was not even impleaded as a party. The defendant brought an amendment to the written statement to contend later that there was a Will executed by the vendor in favour of the purchaser bequeathed in the property in his favour as if to state that there had been a transfer of right by means of such a Will. It is indeed doubtful in the present state of law whether such a Will could give the benefit to the defendant. If these contentions were to be brought by means of an amendment, it has to be decided in the light of the amended provisions of Order 6 Rule 17 CPC. Although the Courts would be generally liberal in allowing for an amendment of the written statement, the point that will have to be seen is whether the amendment is necessary and if it is not brought on record substantial prejudice will be done. The new requirement is also that the matter brought before the Court by way of an amended pleadings must be such as to make an inference possible that the defendant had not known the same in spite of the due diligence. The

reference to agreement and General power of attorney is already there in the original statement and if the defendant was even stating that general power of attorney it self was not handed over to him and he had not given any detail about the agreement without disclosure of why the defendant could not state these details, he cannot be said to fulfil the requirement of law. I thought for a while whether the leniency given to the defendant for amendment of the written statement could be extended to him, but, I find there will be literally no purpose served and no special hardship could be said to arise in the light of the position of law that obtains through the judgment of the Supreme Court in Surya Lamp and Industries Private Limited Vs. State of Haryana and another, 2009 (7) SCC 363.

There is not warrant for allowing the amendment. The Court had correctly considered the issue and declined the amendment. There is no scope for interference. The revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

16.11.2015
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