

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

C.R. No. 875 of 2015

Date of decision: 13.02.2015

Bajrang Sharma

....Petitioner(s)

Versus

Prithvi and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Amit Jain, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The challenge in the present revision petition filed by the petitioner-defendant no. 2 Bajrang Sharma is to the order dated 17.01.2015 (Annexure P-5) passed by the Civil Judge (Jr. Divn.), Hisar whereby, the application for amendment of the written statement has been declined on the account that there was no due diligence and the case was fixed at the stage of defence evidence. It was, however, noticed that the defendant-applicant has already taken objection regarding the Court fees and, therefore, the same would be decided on the basis of final argument.

Counsel for the petitioner has vehemently submitted that para no. 12 mentioned in the application for amendment would show that a letter dated 17.01.2006 was issued by the earlier Centurion Bank of Punjab and as per the letter, the roles of the banking officials have been defined. It is submitted that in such circumstances, the trial Court is not justified in denying the amendment since a specific plea had been taken in the written statement that there was a separate cash department and a separate staff on the loan department and thus, the roles were defined and the amendment would only facilitate the Court to come to a valid conclusion as to what was the role of the petitioner.

It is a matter of fact that the plaintiffs have already concluded their evidence in the suit which was instituted on 23.04.2009 and the case was fixed for defendant's evidence when the application for amendment was filed and thus, in view of the settled principles, was not maintainable.

In such circumstances, the reasoning which has been given by the trial Court that the amendment could not be allowed in the absence of due diligence is not liable to be interfered with. The stand of the defendant is already on the file and he has yet to lead his evidence. It will be always open to him to get the concerned letter exhibited in order to prove his case. It is settled principle that the evidence is not to be pleaded and, therefore, the argument raised that para no. 12 was necessary to be incorporated, does not cut much ice with this Court.

Accordingly, the present revision petition is dismissed with the above said observations.

13.02.2015
shivani

(G.S. SANDHAWALIA)
JUDGE