

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

CR No.8701 of 2014

Date of Decision:-12.01.2015

DLF Home Developers Ltd.

.....Petitioner.

Versus

Ram Kumar & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Chetan Mittal, Senior Advocate assisted by
Mr. Harsh Bungar, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Defendant no.1 is in revision assailing the order dated 26.08.2014 (P-7) passed by the learned Civil Judge(Jr. Divn.) Gurgaon whereby their application for amendment of the written statement has been dismissed.

It is apparent that the respondents/plaintiffs have filed a suit for partition and after the evidence of the plaintiffs had commenced and one witness examined, an application by the petitioner/defendant no.1 for amendment was filed seeking to take the objection of the suit being barred by Order 2 Rule 2 of Civil Procedure Code in the light of previous partition proceedings regarding portion of the suit land. The Court below has declined the same on the ground that the petitioner/defendant no.1 were throughout within the knowledge of the previous partition decree, to which

they are also party and, therefore, being hit by the proviso to Order 6 Rule 17 CPC declined the relief.

After making some submissions and realizing the fact that the previous decree of partition qua portion of the suit land being pleaded in the written statement and also admitted by the plaintiff, learned Counsel for the petitioner prays for permission to withdraw the present revision petition since they would be entitled to raise legal plea on the material placed on record at the time of trial.

Dismissed as withdrawn.

**(JASWANT SINGH)
JUDGE**

January 12, 2015
Vinay