

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

CR No.8830 of 2014

Date of Decision:-08.01.2015

Jai Bharat alleged Chela of Swami Agnidev Bhisham.

.....Petitioner.

Versus

Arya Samaj Nagori Gate.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Rose Gupta, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Defendant is in revision aggrieved against the order dated 28.11.2014 (P-6) passed by the learned Civil Judge(Jr. Divn.), Hisar whereby his application for amendment of written statement has been dismissed.

Learned Counsel for the petitioner has argued that the learned lower trial Court has wrongly dismissed the application because it is apparent from the record that in his application for amendment when he came to know about the facts which he intended to plead by way of amendment only during the evidence and, therefore, the said amendment is very much necessary for deciding the present controversy.

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 same deserves to be dismissed.

Through the application for amendment the petitioner/defendant intends to add the fact that the Swami Agnidev Bhisham had already executed a lease deed no.254 dated 11.04.2000 in the name of the defendant/petitioner and the defendant/petitioner Jai Bharat is in possession over the suit property by way of above said lease deed executed by Swami Agnidev in his favour. Admittedly, the present suit has been filed by the plaintiff Arya Samaj on the basis of lease deed no.2201 dated 22.06.2001. Thus, the lease deed which the petitioner/defendant wants to add in his written statement by way of amendment is of a previous date and is obviously in his knowledge. No explanation is coming forth in the entire application as well as during the arguments as to why this lease deed was not pleaded in the original written statement. Thus, there is no due diligence on behalf of the defendants. Furthermore, the trial in the present case has already commenced as four Pws have already been examined and thus, the amendment is squarely hit by the Proviso to Order 6 Rule 17 CPC, therefore, no ground is made out for allowing the amendment application.

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

(JASWANT SINGH)
JUDGE

January 08, 2015
Vinay