

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

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**Civil Revision No. 4949 of 2016
Date of Decision: August 04, 2016**

RAJPAL

-PETITIONER

VS

RITESH ARYA AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Sushil Bhardwaj, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Petitioner seeks to challenge order dated 08.07.2016 passed by Civil Judge (Sr. Divn.), Karnal whereby application for amendment of the plaint and impleadment of one Rajan Sharma as party defendant No.3 was declined.

{2}. Petitioner alleged that name of Rajan Sharma came to be noticed only while preparing the suit for evidence and, therefore, his name could not be mentioned in the plaint as defendant No.3 due to clerical mistake. However, his name was duly mentioned in the pleadings of the plaint.

{3}. Defendants contested the application on numerous counts, highlighting the cause of action qua Rajan Sharma to be barred. Even requirement of Order 6 Rule 17 CPC could not be spelt out by the petitioner vis-a-vis the fact that there was no mention in

the application as to what para is sought to be added qua proposed defendant No.3 in the plaint.

{4}. Above all, the proposed amended plaint was not filed along with the application. In the original plaint, no claim was made against Rajan Sharma either in the head note or in the prayer clause. It was only alleged that the cheque was presented by Rajan Sharma in the Bank and withdrawal was made accordingly. The pleadings were conspicuously missing as regard to the capacity in which Rajan Sharma acted in furtherance of issuance of cheque whether the same was on the basis of some authority given by the contesting defendant or otherwise. The pleadings are totally vague. The second prayer for impleadment of Rajan Sharma to be a party defendant in terms of Order 1 Rule 10 CPC is totally dependent on the fact whether name of Rajan Sharma is required to be brought on record by amendment of the plaint.

{5}. Since the amendment of plaint is being sought on vague premise, therefore, application under Order 1 Rule 10 CPC cannot be allowed. No amount of recovery can be ordered against Rajan Sharma in view of original claim having not been espoused against him. Even otherwise, cause of action qua Rajan Sharma cannot be entertained beyond limitation. The cheques having been presented on 24.08.2009 and 16.10.2009, the filing of application at such a belated stage would be barred by limitation as well.

{6}. In view of aforesaid, no indulgence can be granted by this Court.

{7}. Accordingly, the present revision petition is dismissed.

04.08.2016

jyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No