

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

Civil Revision No.6787 of 2016
Date of decision: October 07, 2016

Vijay Kumar Sardana ...Petitioner

Versus

Darshan Kumar & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Iqbal Singh Ratta, Advocate for the petitioner.

Rajan Gupta, J.

Present revision is directed against the order dated 23.05.2016, passed by District Judge, Palwal, whereby application U/O 6 Rule 17 CPC filed by the petitioner for amendment of plaint has been rejected.

Learned counsel for the petitioner has assailed the order. He submits that there are certain subsequent events which are necessary to be incorporated in the plaint. As per provisions of Order 6 Rule 17 CPC, application for amendment can be allowed at any stage.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, petitioner/plaintiff filed a suit for declaration and mandatory injunction with consequential relief of permanent injunction against the respondents. The said suit was dismissed by the trial court vide judgment and decree dated 19.12.2014. Aggrieved, petitioner

preferred appeal, which is pending in the court of District Judge, Palwal. During pendency of appeal, petitioner filed instant application U/O 6 Rule 17 CPC for amending the plaint to the effect that previously, a partnership was constituted between Shri Karam Chand Sardana, father of the parties with the applicant and respondents No.1 & 2. They constituted membership of Hindu Undivided Family and carried on a Hindu family business by running a chemist shop and they also got registered the said partnership firm for the purpose of income-tax. Trial court has rejected the prayer observing that amendment sought by the petitioner is not necessary, as proposed amendment is not going to effect merit of the case in any manner. I find no legal infirmity with the order. Suit was filed on 4.2.2009 and same was decided on 19.12.2014. Appeal against the said judgment and decree is pending before the District Judge, Palwal. Instant application has been filed by the petitioner at the appellate stage after a lapse of seven years of filing the suit. Moreover, the facts mentioned in the instant application are not necessary to be incorporated in the plaint. Thus, proviso to Order 6 Rule 17 CPC would not be attracted to the case. The revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

October 07, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No