

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 713 of 2016 (O&M)**

**Date of Decision: 01.04.2016**

Harjinder Kaur

... Petitioner(s)

Versus

Satnam Singh

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Shekher Dhawan.**

- |    |                                                                       |            |
|----|-----------------------------------------------------------------------|------------|
| 1. | Whether reporters of local newspapers may be allowed to see judgment? | <b>Yes</b> |
| 2  | To be referred to reporters or not?                                   |            |
| 3  | Whether the judgment should be reported in the Digest?                | <b>Yes</b> |

Present: Mr. Maninder Arora, Advocate  
for the petitioner(s).

**Shekher Dhawan, J.**

**CM-4759-CII-2016**

Civil Misc. Application is allowed.

Documents (Annexures P2 to P4) are taken on record.

**CR-713-2016**

Present petition is challenge to the order dated 25.1.2016, passed by learned Civil Judge (Junior Division), Tarn Taran, whereby application under Order 6 Rule 17 CPC, filed by the petitioner/plaintiff, for amendment of plaint was dismissed.

Learned counsel for the petitioner mainly submitted that the Court below failed to appreciate that by way of application having been filed under Order 6 Rule 17 CPC, petitioner had sought permission

to give correct boundaries of the property in dispute and the intention was not to delay the proceedings of the case. The acceptance of application was neither going to change the nature of the suit nor would change any cause of action. But the Court below dismissed the application vide impugned order, which is liable to be set aside.

Having considered the submissions made by learned counsel for petitioner, this Court is of the considered view that application for amendment of plaint was filed by the present petitioner when both the parties have already lead their respective evidence. The amended provisions of Order 6 Rule 17 CPC read as under:

***"Order 6 Rule 17. Amendment of pleadings.-***

*The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.*

*Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."*

The above referred provision makes it ample clear that amendment of pleadings is not permissible after commencement of trial. The only exception is that:

- 1) That despite due diligence, the party could not have raised the matter before the commencement of trial.
- 2) The same may be necessary for the purpose of determining real question of controversy.

However, both the points in the present case are against the petitioner because the application has been filed after commencement of the trial and more so, at the fag end of trial. Both the parties have already led their respective evidence. The proposed amendment was well within the knowledge of the petitioner right from the beginning. More so, the Court below has already dismissed the application with the observation that the evidence already available on the file is sufficient to decide the controversy. Such a view was taken by Hon'ble the Supreme Court in case ***Ajendraprasadji N. Pande and Another v. Swami Keshavprakeshdasji N. and Others 2007(1) RCR (Civil) 481*** and also by this Court in cases ***Arjun Chand v. Smt. Shama Joshi 2011(2) RentLR 55, Sunil and Others v. Jai Prakash and Another 2013(1) PLR 465*** and ***Mahender Singh Tehlan and Another v. Nirmla Devi and Others (Civil Revision No. 3913 of 2013, decided on 15.7.2013)***.

In view of above, the Court below has rightly dismissed the application. Thus, the present petition stands dismissed being devoid of any merit.

**(Shekher Dhawan)**  
**Judge**

**April 1, 2016**

"DK"