

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

**C.R. No.8698 of 2015 (O&M)
Date of Decision : 27.01.2016**

Raj Kumar

..... Petitioner

Versus

Jagan Nath

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. S.S. Gurna, Advocate
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This petition has been filed against the order of the Appellate Court dated 17.10.2015 dismissing the application filed by the petitioner under Order 6 Rule 17 CPC for amendment of his written statement.

The respondent-landlord had filed a petition for eviction against the petitioner on the ground of personal necessity. Ten years later while in appeal the petitioner moved the instant application to plead that the respondent had not disclosed that he had i) one premises where he was running the business of sale of medicines being wholesale dealer under the name and style of Shiv Traders, ii) another premises where he was running a

school under the name and style of Lajwanti Senior Secondary School and
iii) some premises opposite the shop in dispute which were also owned by the respondent and which could with a little modification be turned into a shop. The Appellate Authority held that as per the extant position of law amendment could not be allowed after the trial had finished unless the party was able to show that he could not plead those essential facts despite due diligence. As per the Appellate Authority the petitioner had not satisfied the test of due diligence because nothing had been disclosed by him with regard to how and when he came to know about these facts and why he could not have brought these facts on record despite due diligence. In the circumstances, the Appellate Authority held that it would not be in the interest of justice to allow the petitioner to completely displace the case of the respondent at this stage.

Even before me, the learned counsel for the petitioner has not been able to establish (even in the absence of the necessary averments) as to how these facts could not be brought to the notice of the Court earlier despite due diligence and how and in what circumstances the petitioner came to know about these facts 10 years after the case was instituted.

Resultantly, I see no reason to take a different view to that taken by the Appellate Authority.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

January 27, 2016

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