

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

Civil Revision No.2601 of 2017 (O&M)
Date of decision: May 17, 2017

Harbans Lal Maini & Sons HUF ...Petitioner

Versus

M/s Shruti Silk Mills & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. J.K. Khetarpal, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 10.01.2017, passed by the court below, whereby application under Order 6 Rule 17 CPC filed by defendant/respondents for amendment of written statement, has been allowed.

It has been urged before the court that the trial court gravely erred in allowing the application for amendment of the written statement, as same was not maintainable. By way of proposed amendment, defendants want to withdraw their admission made in their written statement filed earlier. He has placed reliance on judgment reported as *Ajendraprasadji N. Pande & Anr. vs. Swami Keshavprakeshdasji N. & Ors., 2007 (1) R.C.R. (Civil) 481.*

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 recovery of

Rs.22,73,333/- against the respondent/defendants. Defendants contested the suit and filed their written statement. After framing of issues on 14.7.2015, some evidence of plaintiff was led. At this stage, defendants moved instant application under Order 6 Rule 17 CPC for amendment of the written statement. After considering rival contentions of the parties, trial court has allowed the application by observing that defendants only want to claim that they had already made some part payment against the loan amount. I find no infirmity with the order. It is evident that defendants' evidence is yet to start in this case. Application was moved by the defendants immediately after four witnesses of the plaintiff were examined-in-chief. I am of the considered view that in the facts and circumstances of the instant case, trial court has rightly allowed application filed by the defendants. Amendment of written statement stands on different footing than that in the plaint. There is no dispute regarding the proposition laid down in judgments *Ajendraprasadji's case (supra)*. However, same is not applicable in peculiar facts and circumstances of this case. Petitioner is not going to be prejudiced in any manner by the said amendment. I find no ground to interfere in revisional jurisdiction.

Dismissed.

(RAJAN GUPTA)
JUDGE

May 17, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No