

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CR No.6144 of 2016
Date of decision: 16.11.2017

Braham Dutt

..... Petitioner

Versus

Rakesh Aggarwal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Chetan Bansal, Advocate and
Mr. Deepak Basatia, Advocate
for the petitioner.

Mr. Sachin Gupta, Advocate
for respondents No.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

It is not disputed before me that the defence sought to be added by way of amendment was in the knowledge of the defendant when he filed written statement. Learned trial Court has found that the defendant is trying to plead a defence which is entirely new. The trial Court has also further noticed that the plaintiffs have already led substantial part of their evidence and the plaintiff's case would prejudice if amendment is allowed at this stage.

Still further, as per the proviso added to Order 6 Rule 17, amendment after the commencement of the trial can only be ordered if the party seeking amendment is able to satisfy the Court that in spite of due diligence, such plea could not be raised before the commencement of the trial. A reading of the application for amendment of the written statement

would show that the defendant-petitioner did not even plead that in spite of due diligence, such plea could not be taken before the commencement of the trial. Defendant-petitioner had only pleaded that although such sale deeds were in his knowledge but certified copies thereof were not available. Once this fact was in the knowledge of the defendant-petitioner, in view of proviso to Order 6 Rule 17, amendment cannot be allowed.

For the reasons recorded above, this Court does not find any good ground to interfere with the order passed by the trial Court.

Revision petition is dismissed.

16.11.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No