

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

CR No.6270 of 2016
Date of decision : 20.09.2017

Narinder Bansal

...Petitioner

Versus

Dr. Jaya Bansal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.P.S. Ghuman, Advocate for the petitioner.

Mr. Vikas Mohan Gupta, Advocate for the respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1 is in revision petition against the order refusing the amendment of the written statement.

Learned trial Court after appreciating the facts available on the file, after noticing that the plaintiffs have already concluded their evidence, the defendants have examined four witnesses and the amendment sought for was in the knowledge of the defendant No.1, dismissed the application. The operative part of the order reads as under:-

“5. Perusal of the file shows that the present suit was instituted on 25.08.2010. The issues were framed on 22.11.2011. The plaintiff concluded the evidence on 13.05.2016. The case was fixed for evidence of the defendants and four Dws have been examined by the defendants. The present application has been filed on

22.07.2016 by virtue of the amendment of written-statement. The defendants want to add the reasons why Atma Devi widow of Dr.Ram Kishore was given the house. These reasons have not been given in para No.3 of the written-statement. He also wants to add that Atma Devi had contributed funds for construction of the house. Another material amendment that the defendant wants to insert is that he wants to add additional paragraph to para No.10 claiming that inadvertently defendant No.1 could not mention in his written-statement that he has purchased the house measuring 98 Sq. yards bounded as under:- "North: Road width 18½ ft, South: House of Atma Devi width 19½ ft. East: Huse of Atma Devi Length 45', West: House of Pal Ram Length 45' from Ram Lal, Kesho Ram, Badri Dass sons of Walaiti Ram situated in Dr.Ram Kishore Street, Nabha vide registered sale deed dated 11.03.1985 which the plaintiffs have wrongly included this house of defendant No.1 in the property in suit by concealing material facts, which dis-entitles them from any relief. The defendant has failed to put forward any reasonable explanation as to why these facts could not be pleaded at the time of filing of the written-statement, at the time of framing of issues or even thereafter for a period of 4 to 5 years. The amendment sought clearly shows that these facts were very much in the knowledge of the defendant. As such he was required to put forward reasonable explanation for failing to plead these facts. The defendant has not given any explanation whatsoever. Moreover it is not pleaded by the defendant in the written-statement that Atma Devi had contributed funds for the construction of the house and this is a new fact that the defendant wants to insert by way of amendment of written-statement which would affect the evidence that has already been led. Similarly, why plea regarding the house

which defendant claims to have purchased vide sale deed dated 11.03.1985 was not made at the appropriate time that the same was self-purchased is not explained. By making these amendments, the defendant wants to set up a new defence which cannot be allowed at this belated stage, as it will take the plaintiff by surprise and cause irreparable loss to the plaintiff. Accordingly, finding no merits in the application, the same is dismissed.”

Still further, a reading of the application seeking amendment of the written statement would show that the defendant No.1 has not even pleaded in the application that earlier these facts could not be pleaded in spite of due diligence which is the basic requirement of the proviso to Order 6 Rule 17 CPC.

I have gone through the application seeking amendment of the written statement. Certain facts which have been earlier denied are now sought to be admitted. Certain additional facts are sought to be pleaded. The most of the facts which are sought to be pleaded are in fact part of the evidence. The pleadings have to be concise. The defendant No.1 had filed a detailed written statement on 04.02.2011.

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

Revision petition is dismissed.

20.09.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No