

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

Civil Revision No.8145 of 2016

Date of decision: February 13, 2017

Sunil Kumar

...Petitioner

Versus

Devender Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Nehra, Advocate for the petitioner.

Rajan Gupta, J.

Present revision is directed against the order dated 18.10.2016, passed by the trial court, whereby application U/O 6 Rule 17 CPC filed by the petitioner for amendment of written statement has been rejected.

Learned counsel for the petitioner has assailed the order. He submits that there are certain subsequent events which are necessary to be incorporated in the written statement. As per provisions of Order 6 Rule 17 CPC, application for amendment can be allowed at any stage.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, respondent/plaintiff filed a suit for specific performance with possession and consequential relief of permanent injunction against the petitioner/defendant on 09.01.2012, on the basis of an agreement to sell dated 20.10.2010 regarding a shop measuring 43 sq.

yards. Defendant appeared and filed his written statement on 12.3.2012 denying execution of the agreement to sell. On the other hand, defendant averred that he purchased the shop vide registered sale deed No.5156 dated 20.10.2010, thus, question of entering into an agreement to sell does not arise. When case was at the stage of defendant's evidence, petitioner/defendant filed instant application under Order 6 Rule 17 CPC for amendment of the written statement on the ground that he could not give whole facts, which are required to be incorporated by way of amendment. Trial court has rejected the prayer observing that defendant wants to incorporate new pleadings which cannot be permitted. I find no legal infirmity with the order. Suit was filed on 9.1.2012. Defendant filed written statement on 12.3.2012 and issues were framed on 3.8.2012. Evidence of the plaintiff was closed on 23.5.2016. Thereafter, defendant availed four opportunities but failed to adduce any evidence. On the other hand, he filed instant application for amendment of the written statement. I am of the considered view that defendant/petitioner cannot be permitted to amend the pleadings at such a belated stage. The revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

February 13, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No