

\$~A-50

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 358/2017 and CM Nos. 12502-03/2017

BISHAMBAR SINGH & ANR Petitioner

Through Mr.Satya Ranjan Swain, Advocate
versus

SUDHIR YADAV & ORS Respondent

Through Mr.Rajiv Kr.Garg, Mr.Govind Singh,
Ms.Kavita Rawat and Mr.Siddhant Nagar,
Advocates

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **29.03.2017**

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 28.02.2017 by which the application filed by the petitioners under Order 6 Rule 17 CPC for amending the written statement was dismissed.
2. Respondent No.1 has filed the present suit for specific performance of agreement dated 10.10.2006 and also sought mandatory injunction.
3. The admitted fact is that the suit was filed in January 2007. The petitioners filed their first application under Order 6 Rule 17 CPC which was withdrawn on 24.01.2017. A second application was thereafter filed which was dismissed as not being in a proper format on 07.02.2017. Now, a third application was filed stating it to be in a proper format.
4. The trial court by the impugned order has noted that the evidence has been led by both the parties. Thereafter, the present application has been filed. Relying upon the proviso to Order 6 Rule 17 CPC, the trial court noted that the petitioners have to satisfy the court that the amendment could not be

incorporated in spite of due diligence. It also noted that no reasons have been given in the application as to why the same has been filed belatedly. The application was accordingly dismissed.

5. I have learned counsel for the petitioner.

6. The only ground urged by the learned counsel for the petitioner for the delay in moving the application, which is as stated in the application, is that the previous counsel had not presented actual facts before the court and has not cross-examined the witness properly so as to bring out the relevant facts of the case for proper adjudication.

7. In my opinion, that is not a valid ground for permitting the petitioners to seek amendment of the written statement at this belated stage. There is another reason, in my opinion, to conclude that the trial court has rightly dismissed the application for amendment. A perusal of the application under Order 6 Rule 17 CPC would show that it does not give any details of the amendments which are sought to be added to the written statement. This court in the case of *Arvind Garg vs. Neeta Singhal being CS(OS) 347/2010 Dated: 06.12.2013* has already held that in an application which is filed for amendment, the party is obliged to spell out the necessary amendments which are sought to be incorporated in the plaint/written statement.

8. There are no reasons to interfere in the impugned order. The petition is accordingly dismissed.

9. All pending applications also stand dismissed.

JAYANT NATH, J

MARCH 29, 2017

rb