

**3N THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.R. No.1413 of 2018 (O&M)
Date of Decision: March 01, 2018**

Balley

...Petitioner

Versus

Smt. Bohti and others

..Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Abhimanyu Kalsi, Advocate
for the petitioner.

FATEH DEEP SINGH, J.
Heard.

The very conduct of the petitioner in repeatedly filing amendment applications under the provisions of Order 6 Rule 17 CPC and unbridled liberty to move such applications and the right of the petitioner to have the same incorporated at his will and fancy are put to question in this revision petition preferred with the aid of Section 227 of Constitution of India read with Section 115 CPC, whereby, challenge has been made by the petitioner to orders dated 19.02.2018 of the Court of Learned Civil Judge, Senior Division, Mewat dismissing the application seeking amendment with exemplary cost of Rs.2000/-.

Appreciating the submissions, undisputedly the petitioner, then applicant/defendant appeared in the suit in question and filed written statement through Mr. N.S. Tokas, Advocate. It is the claim of

the petitioner that his thumb impressions were obtained on blank papers and vakalatnama and he never engaged Mr. K.R. Aman, Advocate, who appeared nor instructed him to file written statement. As is there and is so apparent that earlier an application for amendment through another Advocate Ms. Sudesh Garg was moved on 27.10.2017 which was dismissed as withdrawn on 08.11.2017. It is by no means put to question that in the trial of the case, even the evidence of the defendant is already near completion and in view of sub-rule-2 to Order 6 Rule 17 CPC by way of local amendment has to be applied along with proviso to the main provisions that no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. It is well reflected from the impugned orders that the petitioner throughout the trial had changed four counsel. Third was Mr. N.S. Tokas and, thereafter, Mr. Rashid Hussain . No doubt, there is no bar to the numbers of amendment applications that can be sought but the same has to be shown bonafide reasons beyond the control of the petitioner on account of certain factors which by any amount of due diligence could not be discovered earlier. One of the similar application was dismissed vide orders dated 13.1.2017 and after few dates another similar application for amendment of plaint was filed which was allowed vide order dated 15.9.2017. Thus, apparently there is concerted efforts by the parties to delay the matter on such pretexts which are not bonafide and truthful. More so, amendment that is sought to be incorporated would certainly change the very nature of the suit and rather would help the petitioner to improve upon

his case which on account of non-observance of diligence and gross negligence could not be there, thus, wants to put entirely a new case which is not legally permissible. More so, the suit is at fag end of conclusion and it would be travesty of justice to allow the petitioner to carry on with such machination. Learned counsel for the petitioner could not convince how there is any illegality or perversity in the findings of the Court below. Thus, the petition being hopelessly without any merits stand dismissed.

(FATEH DEEP SINGH)
JUDGE

March 01, 2018

aarti

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No