

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

CR No.1505 of 2018

Date of decision: 7th March, 2018

M/s Dalas Biotech Limited

... Petitioner

Versus

M/s Puf Insulation India Private Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Manjeet Singh, Advocate for the petitioner.

FATEH DEEP SINGH, J.

The petitioner is aggrieved over an order dated 24.01.2018 (Annexure P12) whereby the trial Court allowing application of the opposite side under Order VI Rule 17 CPC allowed amendment of the plaint.

Heard Mr. Manjeet Singh, Advocate on behalf of the petitioner and perused records of the case.

Admittedly case was at the stage of plaintiff's evidence when the application in question was moved. The grouse on which the applicant/plaintiff had come up was that the bills for the works executed between the parties could not be relied upon earlier and the same may be allowed to be incorporated in the plaint and eventually allowed to be led in evidence of the plaintiff.

The contentions raised by learned counsel for the petitioner Mr.Manjeet Singh are that the very provisions of Order VI Rule 17 CPC prohibit allowing of such an amendment and that too, at the stage when the trial has already begun. However, as a proviso to this where Court comes to the conclusion that in spite of due diligence party could not have raised the matter before the commencement of trial it is within its powers to allow the same.

The parties are disputing over dues against each other over the works so carried on between them and it is a case of the plaintiff/applicant that the bills are part of the bill-book in his possession and which on account of lack of due diligence could not be earlier placed on record. The Court has come to the conclusion that these documents were very much essential to enable and assist the Court for judicious adjudication of the dispute.

Since it is a dispute purely revolving around the works carried on between the parties, the dues which are outstanding as well as paid and therefore, are essential documents to assist the Court to come to a judicious and comprehensive adjudication of the dispute. Since it is the conclusion of the Court below that it is lack of due diligence which has led to this and being records of the transaction between two sides would certainly be of great material help to the Court in adjudicating the dispute. Apparently there is no illegality and perversity in the findings of

the Court below. The petition being hopelessly without any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

March 7, 2018
rps

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