

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

Civil Revision No.3529 of 2015.

Decided on:-January 17, 2018.

Harcharan Singh and another

.....Petitioners.

Versus

M/s Uttam Trading Company.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Atul Jain, Advocate
for the petitioners.

Mr. R.S. Chauhan, Advocate
for the respondent.

HARI PAL VERMA, J. (ORAL)

The petitioners have filed present civil revision petition under Article 226/227 of the Constitution of India questioning the order dated 05.05.2015 passed by learned Additional Civil Judge (Senior Division), Sultanpur Lodhi, whereby the application filed by the petitioner-defendants under Order VI Rule 17 CPC seeking amendment in the written statement, was dismissed.

Learned counsel for the petitioners has argued that in the suit filed by the respondent-plaintiff for recovery of Rs.2,60,778/- which include the interest calculated upto 31.12.2010, the petitioners have appeared and filed their written statement. However, during pendency of the suit, a necessity has arisen for the petitioners to seek an amendment in the written statement on the ground that the written statement so filed by the petitioners

was, in fact, based on copy and paste. The petitioners are illiterate, simpleton villagers and the contents of the written statement, wherein it has wrongly been typed that the petitioners have settled their account with the respondent-plaintiff, is not based on facts. Therefore, he has prayed that in the event of amendment being allowed, no prejudice is going to be caused to the respondent-plaintiff.

On the other hand, learned counsel for the respondent-plaintiff has argued that there is a specific averment made in the written statement, wherein the petitioner-defendants have clearly stated that the defendants have stopped selling crops through the plaintiff and settled accounts with the plaintiff, wherein Rs.2,60,776/- were informed by the plaintiff to be due towards the defendants, though the defendants have not taken such a huge amount. Therefore, there is no illegality in the impugned order dated 05.05.2015 passed by the civil Court.

I have heard learned counsel for the parties.

The averments made in the written statement does refer that the defendants have settled accounts with the plaintiff, wherein Rs.2,60,776/- were told by the plaintiff to be due towards the defendants, though the defendants have not taken such a huge amount. Even otherwise, irrespective of the above averments made in the written statement, the plaintiff is still required to prove his case by leading positive evidence. Therefore, this Court finds that there is no illegality or irregularity in the impugned order dated 05.05.2015 passed by the civil Court.

Accordingly, the impugned order dated 05.05.2015 passed by learned Additional Civil Judge (Senior Division), Sultanpur Lodhi is affirmed and the present civil revision petition, being devoid of any merit, is dismissed.

January 17, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No