

106.

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

CIVIL REVISION-5015-2017 (O&M)

Date of decision:15.03.2018.

RAJINDER KUMAR

... Petitioner

Versus

MAKHAN SINGH & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Veneet Sharma, Advocate,
for the petitioner.

Mr. V.K.Sandhir, Advocate,
for respondent No.1.

HARI PAL VERMA, J.(Oral)

Petitioner-defendant has filed present revision petition under Article 227 of the Constitution of India impugning the order dated 24.04.2017 (Annexure P-5) whereby the application filed by the petitioner under Order 6 Rule 17 read with Section 151 CPC seeking amendment of written statement, was dismissed.

Briefly stated, respondent-plaintiff filed a suit for possession regarding land measuring 485 square meters, as detailed in the plaint, with an averment that one Gurdev Singh son of Nand Lal and Madan Lal son of Hazari Lal were the owners of the property in dispute, which was purchased by respondents No.1 to 3 vide Sale Deed dated 04.06.1993 and the corrected Sale Deed dated 09.12.1997. While the said suit was pending and evidence of plaintiff was concluded, petitioner-defendant filed an application under Order 6 Rule 17 read with Section 151 CPC to amend his written statement.

Learned counsel for the petitioner has argued that in fact Gurdev Singh son of Nand Ram, who executed sale deed dated 05.08.1993, had already died on 29.07.1990, but this fact was not in his notice, necessitating the petitioner to amend written statement.

On the other hand, learned counsel for respondent-plaintiffs has argued that the suit was filed on 18.10.2006 and the respondent-plaintiffs had concluded the evidence on 04.01.2014, but the petitioner failed to conclude his evidence. Moreover, the factum of death of Gurdev Singh was already in the knowledge of the petitioner-defendant, as on that very fact, the petitioner-defendant had moved an application for examining the admitted signatures of Gurdev Singh from the handwriting expert so as to compare the signatures of Gurdev Singh on the sale deed with the admitted signatures. But still the petitioner had not moved any such application seeking amendment and it is only in January 2017, present application seeking amendment of written statement had been filed for which the respondent-plaintiffs had filed reply on 27.02.2017.

I have heard learned counsel for the parties.

Though as per Order 6 Rule 17 CPC, amendment can be allowed at any stage of trial, but in the case in hand, petitioner intends to seek amendment in the written statement so as to incorporate the fact that Gurdev Singh son of Nand Lal had already expired on 29.07.1990 and his “death certificate is already on record”. But the fact remains that this fact was already in the knowledge of the petitioner-defendant on 29.01.2016 when the application for comparing the admitted signatures of Gurdev Singh was ordered. It is after more than a year, present application had been filed.

concluded their evidence on 04.01.2014 and thereafter as many as 70 opportunities were granted to the petitioner to lead his evidence, but he failed to conclude his evidence. It apparently shows that the petitioner intends to delay the trial in one way or the other. The plea of the petitioner that he would not lead evidence in case amendment is allowed, carries no weight.

Dismissed.

(HARI PAL VERMA)
JUDGE

15.03.2018
sanjeev

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