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

CR-5525-2016

Date of decision : 13.03.2018

Gaurav Maini

... Petitioner(s)

Versus

Raj Kishore

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: None for the petitioner.

Mr. J.S. Khetarpal, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

The petitioner-defendant is in the present revision petition against the impugned order dated 11.04.2016 (Annexure P-6), whereby an application under Order 6 Rule 17 CPC for amendment of the written statement incorporating paragraph Nos.6 and 7 regarding acquisition of knowledge, during the pendency of the civil suit, has been dismissed.

It is pleaded in the petition that the respondent-plaintiff had filed a suit for recovery of ₹2,62,000/-, whereas the petitioner-defendant had filed the written statement on 22.07.2015 (Annexure P-2). When the case was at the stage of plaintiff's evidence, the petitioner-defendant moved an application for amendment of the written statement on the premise that he came across a receipt dated 26.07.2013 bearing the respondent/plaintiff's account No.00341600009913, wherein the said amount is stated to have

been paid to the respondent-plaintiff and therefore, a necessity arose to file the said application.

Learned counsel for the respondent-plaintiff submitted that the plaintiff had already concluded the evidence and it is too late in a day to amend the written statement and rightly so, the application has been dismissed. It would tantamount to *de novo* trial, which is not the scope of the amended provisions of Order 6 Rule 17 CPC, thus, urges this Court for dismissal of the present revision petition.

I have heard the learned counsel for the respondent-plaintiff and appraised the paper book.

During the course of the hearing, it has been brought to the notice of this Court that the argument of the case was already concluded, when the application was filed. In my view, it would tantamount to *de novo* trial as no explanation has come forth in bringing on record that evidence. It would tantamount to put the clock back, even there is no explanation of exercise of "due diligence".

For the foregoing reasons, I do not find any illegality and perversity in the impugned order, much less, no ground is made out for interference and accordingly, the present revision petition is dismissed.

13.03.2018

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**