

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

**CR No.5622 of 2015
Date of decision:22.05.2018**

Regd. Firm M/s Kathania Traders, Commission Agent ... Petitioner

Vs.

Krishan

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajinder Goyal, Advocate
for the petitioner.

Mr. B.S.Dhull, Advocate
for the respondent.

AMIT RAWAL J.

The present revision petition is directed against the impugned order dated 14.08.2015 (Annexure P-6), whereby, an application for amendment of the plaint, has been dismissed.

Mr. Rajinder Goyal, learned counsel appearing on behalf of the petitioner-plaintiff submitted that plaintiff instituted the suit dated 16.07.2011 for recovery of ₹3,31,770/-. The suit was contested by the defendant. When the suit had reached the final stage, it surfaced that there were certain typographical mistakes, for, evidence had been led without any mistake. In certain paragraphs, the date instead of 18.5.2009 has been written as 8.5.2009, instead of 28.7.2009 has been written as 27.7.2009, instead of ₹5810 has been written as ₹15,810/- and instead of ₹90,000/- has

been written as ₹70,000/-. The aforementioned mistake is a typographical and would not take away the right of the defendant, for, there was clerical error and other party would not be seriously prejudiced as it does not tantamount to withdrawing the admission but the Court below declined the application on the premise that trial had already begun and the suit was slated for final hearing.

Per contra, Mr. B.S.Dhull, learned counsel appearing on behalf of the respondent submitted that it is too late in a day for the plaintiff to seek amendment. The aforementioned fact was in the knowledge of the firm through its proprietor and there was no compliance of expression “*despite exercise of due diligence*” which has been incorporated in the amended provisions of Order 6 Rule 17 CPC and thus, urged this Court for dismissal of the petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Goyal, for, the amendment as noticed above is typographical and clerical error, for, the plaintiff had already led the evidence without any typographical mistake, i.e., tandem with the proposed amendment and in such circumstances, I am of the view that the trial Court ought not to have dismissed the application and allowed the same, for, it would help the Court in adjudication of the lis subject to any terms and conditions. It is not a case of withdrawal of the admission or changing the cause of action.

The impugned order is hereby set aside by allowing the

application for amendment. The revision petition is allowed subject to costs of ₹5,000/-. It is made clear that plaintiff is not permitted to lead any additional evidence in terms of the proposed amendment.

May 22, 2018

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No