

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

**C.R. No.6931 of 2017 (O&M)
Date of Decision: March 09, 2018**

Manohar Singh Gulati

...Petitioner

Versus

Sunil Kumar

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepak Arora, Advocate
for the petitioner.

Mr. Sandeep Oberoi, Advocate
for the respondent.

FATEH DEEP SINGH, J.

Petitioner-Manohar Singh Gulati has sought quashment of orders dated 24.5.2017 Annexure P/5 dismissing his application under Order 6 Rules 17 CPC.

Learned counsel for the respondent has made statement that he has no objection, if the present petition is allowed as due to pure typographical error the word '*not*' has inadvertently been mentioned and deletion of the same would not cause any prejudice to the case of the respondent.

Appreciating the submissions of learned counsel for the parties and perusal of the records. Though, upon amendment of the Code of Civil procedure provisions of Order 6 Rule 17 which was amended with effect from 1st July, 2002 had laid a proviso that no such application for amendment shall be allowed after the trial has commenced, unless the Court

comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. Admittedly suit is at the stage of evidence, however, keeping in view the qualifying words in this amended provisions it is a pure bonafide typographical error that has crept in and mere deletion of the word '*not*' would not change the nature of the suit and would not cause prejudice to the case of the other side nor would protract the trial in any manner. Thus, the case of the petitioner certainly comes within the ambit that in spite of exercise of due diligence due to oversightedness neither the petitioner nor his counsel could detect this typographical error.

Thus, in the interest of justice to ensure that parties do not unduly prolong the litigation on account of such remiss, the present petition is allowed and consequently the application seeking amendment.

(FATEH DEEP SINGH)
JUDGE

March 09, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No