

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

Sr. No.235

C.R. No.8155 of 2016

Date of decision: 13.08.2018

Dilbag Singh

....Petitioner

versus

Jai Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. S.K. Hooda, Advocate
for the petitioner.

Mr. M.S. Rana, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 08.11.2016 passed by the Civil Judge (Junior Division), Bahadurgarh (for short – 'the Trial Court') through which an application filed by the petitioner under Order 6 Rule 17 CPC seeking amendment of his plaint has been dismissed.

The relevant facts which have been culled out from the record and after hearing learned counsel for the parties are that in the year 2012, the petitioner filed a suit seeking therein to be declared owner in possession of 1/3rd share of the land detailed and described in para no.1 of the plaint (for short – 'the suit property'). Consequential relief of permanent injunction was also sought. After the parties had led their respective evidence and the suit was adjourned for rebuttal evidence/final arguments, the petitioner filed an application under Order 6 Rule 17 CPC read with Section 151 CPC

seeking to amend his plaint to add therein the fact that in the year 1997 there had been a family settlement between the parties which had also been reduced in writing on 29.06.1997. The trial court rejected the application through the order which is impugned in the present petition.

After hearing learned counsel for the parties, no merit is found in the present petition.

Through the sought amendment, the petitioner wanted to amend his plaint to add therein the fact that in the year 1997 there was a family settlement between the parties to the suit which had also been reduced in writing on 29.06.1997. As per the petitioner, the aforesaid family settlement had got misplaced and was retrieved only on 02.02.2015 occasioning the belated filing of the amendment application on 07.11.2016.

A perusal of the plaint filed by the petitioner way back in the year 2012 shows no reference to the aforesaid family settlement. Even if the stand of the petitioners that the family settlement which was reduced in writing on 29.06.1997, was got misplaced and was retrieved only on 02.02.2015, is accepted, nothing precluded the petitioner from at least making a reference to the family settlement in his plaint.

Even otherwise, the so called family settlement was traced out on 02.02.2015 but the application for amendment was filed only on 07.11.2016 i.e. one year and nine months thereafter. Such delay, for which there is no explanation whatsoever, is fatal to the petitioner's case especially in view of the essential ingredients of Order 6 Rule 17 CPC which provide that amendments are to be allowed only in the cases of vigilant litigants. Further, it is too late in the day for the petitioner to seek amendment of his pleadings as it is admitted that the application was filed

only when both the parties had concluded their entire respective evidence and the matter had been posted for final arguments i.e. when the respondents/defendants had already exposed their entire case.

In view of the above, no error is found in the order of the trial court in dismissing the application filed by the petitioner.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 13, 2018
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No