

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

**CR No.6846 of 2017(O&M)
Date of Decision: 05.02.2019**

Jaswinder Kaur deceased through her LR.....Petitioner

Versus

Satpal

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Liaqat Ali, Advocate
for the petitioner.

Mr. S.P. Soi, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner is aggrieved of order dated 24.08.2017 passed by Additional Civil Judge (Senior Division), Nakodar vide which the application filed by the defendant/petitioner under Order 6 Rule 17 CPC for amendment of the written statement was declined.

[2]. Perusal of the record would show that the plaintiff/respondent filed a suit for specific performance on the basis of agreement to sell dated 08.05.2013. Defendant/petitioner has denied the very execution of the

agreement to sell in the written statement and claimed the same to be the result of fraud.

[3]. By way of proposed amendment, the petitioner seeks to incorporate the factum of J-form issued by the plaintiff to show relationship of Commission Agent and Farmer between the parties at the relevant time. Even if, the plea of J-form is allowed to be incorporated that will not advance the case of the defendant/petitioner beyond the plea of fraud already taken in the written statement. The proposed amendment in no way answer the issue in question. After proving the execution of agreement to sell by the plaintiff, the onus will be shifted upon the defendant to prove the same to be fraudulent or result of fraud by way of leading evidence. The proposed amendment in no way will advance the case of the defendant/petitioner beyond the stand already taken in the written statement.

[4]. Even though, the amendment in the written statement is to be liberally construed as the same rests on some different pedestal than that of amendment of plaint, but still the relevancy to some extent can be seen in order to prevent the proceedings from landing in vacuum. The incorporation of the plea of J-form cannot elaborate the plea of fraud in any manner.

[5]. In view of above, observations recorded by Additional Civil Judge (Senior Division), Nakodar vide order dated

24.08.2017 cannot be faulted with nor the same is found to be perverse or suffering with any error of jurisdiction. This revision petition is accordingly dismissed.

05.02.2019

Prince

**(RAJ MOHAN SINGH)
JUDGE**

**Whether reasoned/speaking
Whether reportable**

**Yes/No
Yes/No**