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

**Civil Revision No.7690 of 2017 (O&M)
Date of Decision: 30.09.2019**

**M/s Shahbaj Traders and another
.....Petitioners**

Vs

**M/s Jawala Rice Mills and others
....Respondents**

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

Present: Mr. P.S. Jammu, Advocate
for the petitioners.

Mr. K.B. Raheja, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 27.09.2017 passed by the Addl. Civil Judge (Senior Division) Ferozepur vide which the application under Order 6 Rule 17 CPC filed by the petitioners was dismissed.

[2]. Plaintiffs sought permission to amend the plaint on the premise that the suit was filed on the basis of sole proprietorship of Shahbaj Singh, whereas infact the plaintiff firm is a partnership concern. Written statement was filed by the defendants on 13.05.2013 taking the objection that the

petitioner No.1 is not a sole proprietorship firm. Despite the aforesaid stand taken by the defendants in the written statement, the plaintiff did not take any action to file application for amendment and remained passive for more than four years in seeking amendment. Application for amendment of the plaint was filed only on 31.08.2017, when the case reached the stage of arguments.

[3]. Perusal of the record would show that both the parties have concluded their evidence on 17.03.2017 and the case is fixed for arguments. Plaintiffs have only produced some documents of partnership deed on record. The conversion of suit from sole proprietorship to partnership firm viz-a-viz. the date of knowledge after filing written statement on 13.05.2013 would be barred by limitation.

[4]. It is a settled principle of law that all *bona fide* amendments should be allowed. In the instant case, the objection was taken by the defendants in respect of status of the plaintiff No.2 being a sole proprietor of the firm on 13.05.2013. The plaintiff did not care to amend the pleadings for more than four years. The application for amendment of the plaint came to be filed only on 31.08.2017. The delay in moving the application would be having a tallying effect on the cause of action for seeking amendment for incorporating plea of firm being a

partnership concern. The case has reached the stage of arguments. The parties have concluded their evidence on 17.03.2017, still the application was filed thereafter on 31.08.2017. The omission on the part of the plaintiff cannot be ignored.

[5]. In view of aforesaid, the impugned order dated 27.09.2017 passed by the Addl. Civil Judge (Senior Division) Ferozepur does not suffer with any jurisdictional error. This revision petition is accordingly dismissed.

September 30, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No