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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Revision No.6520 of 2019

Date of Decision: 17.10.2019

Maninder Singh Cheema

..... Petitioner

Versus

Chanda Siddoo Atwal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Aditya Dassaur, Advocate,
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This revision petition is directed against the order dated 19.09.2019 passed by the Ld. Civil Judge (Junior Division), Phagwara, vide which the application of the petitioner/defendant seeking amendment of his original written statement was rejected.

2. The proposed amendment in the concerned application (Annexure P-14) was the incorporation of an additional preliminary objection No.6 in the written statement to the effect that the suit of the plaintiff was time barred.

3. The Ld. Court below in dismissing the application had observed *inter alia* “However, the applicant/defendant is well within his liberty to raise the issue of limitation during the course of final arguments in the present suit.”

4. In this manner, the right of the petitioner to challenge maintainability of the suit has been certainly protected by the Trial Court.

Needless to add, the question of limitation is statutorily required to be considered in terms of the Section 3 of the Limitation Act, 1963, even if no

defence on that ground has been raised.

5. In the given circumstances, there is hardly any illegality or impropriety in the impugned order passed by the Ld. Court below. Ld. Counsel for the petitioner nevertheless submits that by not allowing the application for amendment, the valuable right of the petitioner/defendant to challenge maintainability of the suit on the ground of the same being barred by limitation has been curtailed. In this regard, it may be observed that an application under Order 7, Rule 11 of the CPC seeking rejection of the plaint, filed at the instance of the petitioner, was separately dismissed by the Trial Court against which Civil Revision No.4348 of 2019, has been filed and it is already fixed for 9th January, 2020. It is not comprehensible as to why the petitioner/defendant did not press for rejection of the plaint on the ground of the same being barred by limitation as well in his aforesaid application itself, apart from the other grounds which might have been raised therein. This Court is constrained to speculate as such, because had such ground been actually taken up in the concerned application, there would not have been any need for the petitioner to raise the same again separately by way of amendment of his pleadings. To sum up, no premium can be awarded to a party, which falters in pursuing its case diligently and with appropriate care at the appropriate stage.

6. No merits. Dismissed with costs of ₹1,000/- which may be deposited with the High Court Legal Services Authority.

17.10.2019*Bhumika***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No