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

Civil Revision No.6974 of 2019 (O&M)

Date of Decision: 19.11.2019

Pishora Singh

..... Petitioner

Versus

Jasbir Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. R.S. Sidhu, Advocate,
for the petitioner.

Mr. G.S. Nagra, Advocate,
for respondent No.1/Caveator.

SUDIP AHLUWALIA, J. (ORAL)

1. The petitioner in this case happens to be the plaintiff in Civil Suit No.226 of 2017 pending in the Court of Ld. Additional Civil Judge (Senior Division), Tarn Taran. He is aggrieved by rejection of his application for additional evidence (Annexure P-2) as also his separate application seeking amendment in the original plaint (Annexure P-5). The two applications were rejected vide the orders passed by the Ld. Court below on 04.10.2019 and 18.10.2019 (Annexures P-4 and P-6, respectively).

2. The suit was originally filed seeking the judgment and decree, passed by the Court of the Additional Civil Judge (Senior Division), Tarn Taran, dated 02.07.2016 in Civil Suit No.228/2016/CIS No.CS/216/2016, to be set aside on account of alleged collusion between the parties of the said suit, along with prayers of seeking possession by way of specific performance in respect of agreement to sell and with other

alternative/ancillary relief by way of refund of the Earnest Money, allegedly paid by the petitioner in respect of sale agreement relied upon by the petitioner alleged to have been executed in his favour by the respondent/defendant No.2 on 22nd February, 2016.

3. It is to be noted that both the aforesaid applications had been filed on behalf of the petitioner after evidence from both the sides had already been closed. He had sought to lead additional evidence in the case at that stage by contending that such evidence had not been brought on record on account of omission on the part of his previous counsel. The Ld. Court below was, however, not impressed by the petitioner's contention and in rejecting his prayer for additional evidence, relying upon the decisions of this Court in “**Munna Lal Vs. Sadhu Ram and others**”, 2009(3) PLR 696 (P&H) and “**Saroj Vs. Charan Singh and others**”, 2018(1) Civil Court Cases 759 (P&H). It is observed *inter alia* that “By shifting responsibility on the previous counsel, the plaintiff cannot 'sought' (Sic) summoning of additional evidence. Since in this case, the evidence of the plaintiff was closed by order of the Court, therefore, the application for additional evidence is not even maintainable before this Court”.

4. The second application for amendment was, subsequently, rejected by the Ld. Court below with the following observations:-

“After hearing learned Counsel for the parties and having gone through the record carefully, I found no merits in the application as the plaintiff has not mentioned the contents of the Paragraph No.7A, sought to be inserted nor he has mentioned as to why the sale deed and agreement to sell dated 10.03.2016 were challenged when the suit was filed by him, especially when the facts were within his complete knowledge.

Record further reveals that vide order dated 18.01.2019, the application for amendment of the plaint has already been declined which was to challenge the sale deed dated 08.02.2017. Moreover, no reasons have been given in the application as to why these facts were not mentioned in the plaint, which was necessary to be pleaded in view of proviso to order 6 rule 17 Civil Procedure Code.”

5. This Court finds no reason to interfere with both the decisions of Ld. Trial Court in rejecting the petitioner's applications moved at a very belated stage. In the first application, he had sought to blame his previous counsel for not having led the requisite evidence in the case. In the second application for amendment of plaint even though he wanted to incorporate altogether new facts and developments yet it was not mentioned anywhere as to when and how he had come to know about the same in order to justify the late stage at which he had sought such amendment, when evidence from both the sides had been closed and the matter was listed for final arguments.

6. This Court, therefore, finds no merit in the present revision petition which is, accordingly, dismissed.

19.11.2019

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No