

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

CR-1517-2021

Date of decision: 29.11.2021

Parveen Kumar

...Petitioner

Versus

Inder Pal Singla

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Karan Gupta, Advocate,
for the petitioner.

Mr. Vivek Aggarwal, Advocate,
for the respondent.

ARUN MONGA, J. (ORAL)

Petition herein is against an order dated 19.02.2021 (Annexure P-1) passed by learned Civil Judge, (Jr. Division) Patiala vide which in a suit for separate possession and declaration filed by respondent herein, an application preferred by the petitioner under Order 6 Rule 17 read with Section 151 of CPC for amendment of written statement has been dismissed.

2. I have heard learned counsel for the petitioner and gone through the case file.

3. No interference is called for in the order assailed herein, which is premised, *inter alia*, on the following reasoning:

“XXX XXX XXX

8. In opinion of this Court, the facts above mentioned would go to show that applicant is lacking in bonafide in filing this application before the Court. No facts are pleaded nor any grounds are raised in the amendment application to even

remotely contend that despite exercise of due diligence the matter could not be raised by the applicant. It is not the case of the applicant that his possession has become adverse during the course of trial and that too when the case was fixed for defendant evidence and hence he has sought the amendment of written statement at the stage of defendant evidence. Moreover, if the averments of applicant is accepted as such that he came to know about the fact that the plea of adverse possession has not been taken in the written statement when the case was fixed for defendant evidence, then also applicant is not entitled to any relief as already discussed above the case was fixed for defendant evidence on 24.01.2019 and the present application has been moved on 11.09.2019 i.e after the lapse of more than seven months from the date when the present case was fixed for evidence of defendant. More so, it does not lie in the mouth of the applicant-defendant that proposed amendment will not cause any serious prejudice to the respondent-plaintiff as if the proposed amendment is allowed then the onus of proving the adverse possession will be on applicant-defendant and applicant-defendant and his witnesses are still to be examined in the present case and respondent-plaintiff will be having due opportunity to cross examine applicant-defendant and his witnesses. This Court is of view that if application with such a reason is allowed, then it will become tool in the hands of the defendant to file one application after another at the fag end of the trial under the garb that defendant and his witnesses are still to be examined and cross examined by the plaintiff which will become a never ending process, which is not the spirit of Order 6 Rule 17 CPC. Under these circumstances, the case is covered by proviso to Rule 17 of Order 6 and, therefore, the relief deserves to be denied. The grant of amendment at this belated stage when plaintiff evidence is already complete and two witnesses of defendant have already been examined, would lead to a travesty of justice and hence it is in the interest of justice that the amendment sought for be denied and the application be dismissed.

9. *The averment raised in para No.8 of the application does not satisfy the requirement of Order 6 Rule 17 CPC without giving the particulars which would satisfy the requirement of law that the matter now sought to be introduced by the amendment could not have been raised earlier despite due diligence. The trial has commenced in the present case when the issues are settled and plaintiff has concluded his evidence and defendant has also examined two witnesses and the case is set down for recording of further evidence of defendant. This Court is of view that it is just a delaying tactic to linger on the matter further on. No cogent grounds are made out for amendment of written statement in the present suit. Resultantly, the application is hereby declined being bereft of any merit.”*

4. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this court.
5. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement.
6. Dismissed.

(ARUN MONGA)
JUDGE

November 29, 2021
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No