

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

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CR-871-2022 (O&M)

Date of Decision : 14.03.2022

Pawan Kumar and Another

...Petitioners

versus

Smt. Sarabjit and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.D. Sharma, Advocate for the petitioners.

ALKA SARIN, J. (Oral)

Taken up in physical mode.

The present civil revision has been filed under Article 227 of the Constitution of India challenging the order dated 03.01.2022 (Annexure P-5) passed by the Additional Civil Judge, Sr. Division, Jalandhar whereby the application filed by the defendant-petitioners for amendment of the written statement has been dismissed.

Learned counsel for the defendant-petitioners would contend that the present application under Order 6 Rule 17 read with Section 151 CPC for amendment of the written statement is only clarificatory in nature and hence the same ought to have been allowed. Learned counsel would further contend that this would not amount to a *de novo* trial.

Heard.

The suit in the present case was filed on 19.03.2013 and the written statement was filed on 02.09.2014. The application for amendment of the written statement was moved when the case was at the stage of rebuttal and arguments. A perusal of the application for amendment

(Annexure P-3) reveals that the same is totally devoid of any reasons as to it was filed at this belated stage. In fact, there is not a whisper as to why the amendment could not be sought earlier. The amendment that the defendant-petitioners now want cannot be allowed since the same would amount to a *de novo* trial inasmuch as it would necessarily require the plaintiff-respondents to amend the replication and thereafter would also entail fresh evidence. There is no explanation in the application for amendment as to why the amendment was not sought earlier. It is not the case that the facts now sought to be pleaded were not within the knowledge of the defendant-petitioners. The only reason, which has been stated, is that it is explanatory in nature. Even at the time of arguments today, on a specific query put by the Court, learned counsel for the defendant-petitioners was unable to explain as to why the amendment application could not be moved at an earlier stage when all the facts which are now mentioned in the amendment application were well within the knowledge of the defendant-petitioners. No error of law or jurisdiction has been pointed out in the impugned order.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Dismissed.

March 14, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO