

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

129

**CR-2411-2022(O&M)
Date of decision: 04.07.2022**

SATDEV RAJ

...Petitioner

Versus

**MEHTAB RAM (SINCE DECEASED) THROUGH LRS AND
ANOTHER**

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sushil Kumar Verma, Advocate
for the petitioner.**

ANIL KSHETARPAL, J (Oral)

The petitioner herein is defendant no.1 in a suit for possession by way of specific performance of the agreement to sell.

When the case was at the stage of plaintiff's evidence and substantial evidence had been led, the petitioner filed an application under Order 6 rule 17 CPC for permission to amend the written statement. Originally, the petitioner asserted that the agreement to sell was executed only as a security document and it was never intended to be for the purpose of sale of the land.

Now, by way of the proposed amendment, the petitioner wants to assert that the plaintiff obtained his signatures on blank papers. The Court after finding that the proposed plea which is now sought to be taken, is in conflict with the earlier assertions, dismissed the application.

This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paper book.

The learned counsel representing the petitioner contends that the petitioner can be permitted to take alternative plea. He submits that the petitioner can also be permitted to withdraw his application.

This Court has considered the submissions, however, find no merit therein.

As per the proviso to Order 6 Rule 17 of the Code of Civil Procedure, 1908, the amendment of the pleadings, after commencement of trial, is not ordinarily permissible. Furthermore, the petitioner has already taken a plea that the agreement to sell was never intended to be for the sale of the land. As per Order 6 Rule 2 of the Code of Civil Procedure, 1908, in the pleadings the parties are required to state only the material facts and not the evidence. Further, such material facts have to be in a concise form. The petitioner has already filed a detailed written statement, contesting the suit. He can lead evidence to prove those facts, at the relevant time. Moreover, there is no explanation for delay in moving the application for permission to amend. The petitioner has failed to make out a case for exercising indulgence in his favour in view of the proviso to Order 6 Rule 17 of the Code of Civil Procedure, 1908.

Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

July 04, 2022
nt

(ANIL KSHETARPAL)
JUDGE

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