

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

125

**CR-2933-2022**

**Date of decision: 28.07.2022**

Sanjeev Jain

.....Petitioner

Versus

M/s Ramesh Traders and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Gurcharan Dass, Advocate for the petitioner.

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**MANJARI NEHRU KAUL, J. (ORAL)**

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 11.07.2022 passed by learned Civil Judge (Jr. Divn.), Ludhiana in Civil Suit No.4428 dated 05.10.2015 titled as 'Sanjeev Jain Vs. M/s Ramesh Traders and another' (Annexure P-1) whereby application under Order 6 Rule 17 of the Civil Procedure Code, 1908 (for short, 'the Code') filed by the petitioner was dismissed.

Learned counsel for the petitioner submits that the trial Court while passing the impugned order failed to appreciate that the petitioner had also moved an application earlier for directing the respondents to produce on record bills issued by M/s Nakoda Plast Industries, Bombay in favour of the respondents. He submits that the said application was dismissed on the ground that there were no pleadings qua the amount of Rs.35,227/- paid by the petitioner to M/s Nakoda Plast Industries on behalf of the respondents. Learned counsel submits that it was in the above circumstances the petitioner moved an application under Order 6 Rule 17 of the Code to incorporate the

necessary details concerning the payment of Rs.35,227/-. Learned counsel submits that the proposed amendment was necessary for the just and effective adjudication of the dispute between the parties.

I have heard learned counsel and perused the relevant material on record.

It would be apposite to reproduce Order 6 Rule 17 of the Code which reads as under:-

*"Amendment of Pleadings : The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."*

The proviso to Order 6 Rule 17 of the Code which has been reproduced hereinabove makes it abundantly clear that once the trial has commenced, amendment of pleadings should not be allowed unless and until the party seeking such amendment is able to bring to the notice of the Court that proposed amendment could not have been brought-forth earlier or before the commencement of the trial despite exercise of due diligence. The Courts should no doubt be liberal in allowing amendment of pleadings necessary for just and effective adjudication of the dispute between the parties, however, at the same time the Courts must stay alive to any prejudice or injustice which could be caused to the opposite party while allowing any such amendment of pleadings.

Adverting to the case in hand, it is a matter of record that

after the suit in question was instituted in the year 2015, issues were framed vide order dated 08.08.2016. Still further, admittedly after the commencement of the trial two plaintiff witnesses stand examined. Hence, at this belated stage the proposed amendment of plaint has been rightly declined by the trial Court. The plaintiff was well aware about the financial transactions between the parties which is evident from the account statement already placed on record before the trial Court as Ex.P4.

Dismissed.

**28.07.2022**

Vinay

**(MANJARI NEHRU KAUL)  
JUDGE**

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