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IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CR-7439-2024

Date of decision : 19.12.2024

Balvir Singh

... Petitioner

Versus

Sarabjit Singh

... Respondent

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Ish Puneet Singh, Advocate  
for the petitioner.

**VIKAS BAHL, J.(ORAL)**

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for quashing of the impugned order dated 05.11.2024 (Annexure P-1) vide which the application under Order 6 Rule 17 CPC preferred by the petitioner has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner by virtue of the amendment is wanting to elaborate the plea, which has already been taken in the written statement and has thus, submitted that the application filed by the petitioner-defendant was meritorious and should have been allowed and the impugned order dismissing the said application deserves to be set aside.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned order is in accordance

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with law and deserves to be upheld and the present petition being meritless, deserves to be dismissed.

4. The respondent-plaintiff had filed a suit dated 20.09.2019 for possession by way of specific performance of agreement to sell dated 13.06.2018 executed by the defendant in favour of the plaintiff in respect to the property in question. A written statement dated 17.01.2020 was filed by the present petitioner-defendant, in which, it was specifically pleaded by the petitioner-defendant that the agreement in dispute did not bear the signatures of the defendant and that the defendant never executed any such agreement dated 13.06.2018 and that the signatures of the petitioner have been forged. Replication to the said written statement was filed on 09.10.2020. Issues in the present case were framed on 27.01.2021 and thereafter the plaintiff had led his entire evidence and had closed his evidence on 12.09.2023. A perusal of the zimni order dated 12.09.2023 would show that the plaintiff had also examined PW-7 Anil Kumar Gupta, Hand Writing and Finger Print Expert. The petitioner thereafter had filed the present application on 14.11.2023 for amendment of the written statement under Order 6 Rule 17 read with Section 151 CPC and the plea taken in the said application was that the petitioner-defendant could not explain the entire facts to his earlier counsel and thus, they were not pleaded in the written statement and that the petitioner had engaged a new counsel and learnt that the entire facts have not been mentioned in the earlier written statement, thus an amendment of the written statement was sought.

5. A perusal of the amendment of the written statement, which is

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sought, would show that all the facts which are now sought to be pleaded are of a period prior to 17.01.2020 i.e., the date when the earlier written statement was filed. In the last line of the amendment sought, the petitioner-defendant has cleverly mentioned that the plaintiff in connivance with his brother and cousin had prepared a forged “anti dated alleged agreement of sale dated 13.08.2018”. Thus, it is apparent that by virtue of the said amendment, the petitioner-defendant has tried to introduce a defence to the effect that the said agreement was anti dated, whereas his plea in the original written statement was to the effect that the defendant had not signed the agreement and the said agreement was forged and fabricated. Once it was the plea of the petitioner-defendant in the original written statement that the agreement was not signed by him, then the plea of the agreement being anti dated is apparently an afterthought and has been raised since, the plaintiff has examined PW-7 Handwriting and Finger Print Expert and has led evidence in favour of the agreement to sell. At any rate, the said amendment sought is hit by the proviso to Order 6 Rule 17 CPC.

6. A detailed reply was also filed to the said application and in the reply, it was stated that the evidence of the plaintiff was complete and that the defendant was trying to introduce new and false facts and it had been further stated in the reply that the plaintiff had neither given his land on lease to the defendant nor had the plaintiff received any money from him and to substantiate the same, the bank statement of the plaintiff and his son was also attached therewith. The trial Court vide impugned order dated 05.11.2024 had dismissed the said application after taking into



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consideration the proviso to Order 6 Rule 17 CPC. The order passed by the trial Court is in accordance with law and deserves to be upheld. Proviso to Order 6 Rule 17 CPC provides that no application for amendment is to be allowed once 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 the trial.

7. The Hon'ble Supreme Court in the case of *Ajendraprasadji N. Pande and another Vs. Swami Keshavprakeshdasji N. and others*, reported as *2006(12) SCC 1*, had observed that trial is deemed to commence when the issues are settled and the case is set down for recording of evidence and for the purpose of satisfying the requirement of Order 6 Rule 17 CPC (as amended), the necessary particulars are required to be mentioned in the application which would satisfy the requirement of law.

7. In the present case, it could not be disputed that all the averments which are sought to be pleaded in the amended written statement are with respect to events which were in the knowledge of the petitioner-defendant on the date of filing the written statement dated 17.01.2020. The reason given in the application seeking amendment is that the petitioner-defendant could not explain all the facts to his earlier counsel. The said averments in itself show that there was no due diligence on the part of the petitioner-defendant and thus, the amendment sought is hit by the proviso to Order 6 Rule 17 CPC. Moreover in the present case, it is not in dispute, that the issues have been framed on 27.01.2021 and the plaintiff has examined as many as 7 witnesses and has closed his evidence on 12.09.2023. In order



defendant to the effect that the agreement to sell did not bear the signatures of the defendant, the plaintiff has also examined PW-7 Anil Kumar Gupta, Handwriting and Finger Print Expert and it is apparently, thereafter that the application for amendment of the written statement has been moved in which one of the plea sought to be raised is that the agreement to sell dated 13.06.2018 is “an anti dated agreement”.

8. Keeping in view the abovesaid facts and circumstances, the impugned order deserves to be upheld and the revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)  
JUDGE

**December 19, 2024.**  
*Davinder Kumar*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |