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

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Date of Decision: 27.02.2025

**Tikka Singh and others****... Petitioners****V/S****Smt. Gurmeet Kaur and others****.... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. C.L. Premy, Advocate with  
Mrs. Raman Rekhi, Advocate and  
Ms. Amarjit Kaur, Advocate, for the petitioners.

Respondents No. 1 to 3 were proceeded against ex-parte  
vide order dated 18.11.2016.

None for respondent No.4.

Mr. R.S. Manhas, Advocate  
for respondents No. 5 to 8.

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**SUVIR SEHGAL, J. (ORAL)**

1. By way of instant revision petition filed under Article 227 of the Constitution of India, petitioners-plaintiffs have approached this Court assailing order dated 17.08.2016, Annexure P-10, passed by the learned Additional Civil Judge (Senior Division), Rajpura, whereby an application filed by them under Order 6 Rule 17 CPC for the amendment of plaint, has been dismissed.

2. Mr. C.L. Premy, counsel for the petitioners has contended

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that the petitioners had filed a suit for specific performance and during its pendency, in execution of a decree dated 16.04.2012, Annexure P-11, defendants had taken the possession of the suit property from them on 19.01.2015. He submits that the petitioners-plaintiffs, therefore, moved an application for amendment of the plaint claiming relief of possession, but without appreciating that the petitioners have been divested of the property during the pendency of the suit, trial Court erred in dismissing the application.

3. While supporting the order passed by the trial Court, Mr. R.S. Manhas, counsel for respondents No.5 to 8 has contended that the amendment of the plaint cannot be allowed in routine, more so, in view of the proviso to Order 6 Rule 17 CPC.

4. I have heard counsel for the parties and considered their respective submissions besides examining the paper book with their able assistance.

5. Petitioners -plaintiffs filed a suit for specific performance of agreement to sell dated 15.04.2000 and for declaration to the effect that sale deed, dated 18.06.2001 executed in favour of Nirmal Singh, predecessor of respondents No. 5 to 8, is null and void. They also sought relief of permanent injunction restraining the said respondents from alienating the suit property. Stand taken by the plaintiffs in the suit was that the possession of suit property was handed over to them on 15.04.2000, when the agreement to sell was entered into and they are continuing in possession thereof. The suit is being contested by the respondents and issues were framed on the basis of the pleadings.

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Plaintiff produced some witnesses and their evidence was closed on 29.05.2015. After the defendants evidence was closed by an order passed by the Court on 30.05.2016, petitioners-plaintiffs moved the application, Annexure P-7 for the amendment of the plaint, which has been declined vide order impugned herein.

6. Plaintiffs claimed that they have been dispossessed on 19.01.2015, but they filed the application for amendment on 19.07.2016, after 1 ½ years. Both the sides had closed their evidence and the trial was at an advanced stage. Proviso to Order 6, Rule 17, CPC provides that an application for amendment cannot be allowed after the trial has commenced, unless the Court is satisfied that the party seeking amendment has shown due diligence. There is no explanation, whatsoever, about the delay in moving the application. It is evident that the plaintiffs have failed to exercise due diligence.

7. In **Basavaraj Versus Indira and other, (2024) 3 SCC 705**, Supreme Court held that an amendment of the plaint is not a matter of right and burden is on the party seeking amendment after commencement of trial to show that in spite of due diligence, such amendment could not be sought earlier. Plea of oversight cannot be accepted as a ground to allow any amendment in the pleadings, when the facts were to the knowledge of the party. Order 6 Rule 17 CPC is couched in a mandatory language. Unless the pre-condition laid down in the provision is satisfied i.e. a Court must come to a conclusion that in spite of due diligence, the party could not have approached the Court earlier, prayer for amendment cannot be allowed. This Court is of the view that the impugned order



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does not suffer from any perversity or illegally and does not call for any interference.

8.               Petition being devoid of merits, is dismissed with no order as to costs.

9.               As the suit has remained pending for more than a decade, Trial Court shall make an endeavour and decide it as expeditiously as possible, preferably within a period of three months.

27.02.2025  
pooja saini

(SUVIR SEHGAL)  
JUDGE

|                                  |               |
|----------------------------------|---------------|
| <i>Whether Speaking/Reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |