



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

112

CR-7928-2018 (O&M)

Date of decision: 15.07.2025

Chajju Singh and others

... Petitioners

Vs.

Chuhar Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Narinder Kumar Awasthi, Advocate
for the petitioners.

None for the respondent.

SUVIR SEHGAL J.

1. Aggrieved of order dated 23.10.2018 passed by learned Additional Civil Judge (Senior Division), Moonak, whereby an application filed under Order 6 Rule 17 CPC, for amendment of the written statement has been declined, petitioners-defendants have approached this Court by way of instant revision petition.

2. Mr. Narinder Kumar Awasthi, counsel for the petitioner submits that the petitioners are semi-literate and are not aware of the legal technicalities. By way of proposed amendment, they intended to plead they are in possession of the suit property since May, 1969 and as their possession is continuous, open and hostile, they have become



owners by way of adverse possession. He states that an objection has already been taken in the written statement originally filed and amendment is being carried out to clarify the position. It is his argument that without examining the nature of proposed alteration, trial Court has dismissed the application on the ground that it would delay the proceedings.

3. Despite service, respondent is unrepresented.

4. I have heard counsel for the petitioners and considered his submissions besides examining the documents appended with the petition.

5. Respondent-plaintiff has filed a suit for possession, Annexure P-1, on the basis of ownership of land measuring 4 Kanals 8 Marlas in Village Amirgarh, Tehsil Moonak, District Sangrur. It has been pleaded that in collusion with the revenue authorities, defendants have shown themselves to be the owners in the revenue records and are refusing to hand back the possession of the suit land. Upon being served, suit is being contested by the defendants by filing a written statement, Annexure P-2, wherein they have stated that they are in lawful and peaceful possession of the suit land without any interference and that their possession is continuous to the knowledge of the plaintiff for the last over 30 years. Written statement was filed by the defendants on 02.12.2015 and on the basis of the pleadings of



the parties, trial Court framed issues. Plaintiff tendered his affidavit and was cross-examined on 14.12.2018 and application, Annexure P-3, for permission to amend the written statement, was filed by the defendant on the same day, which after contest has been rejected vide order impugned herein.

6. After the commencement of the trial, amendment to the pleadings cannot be permitted in normal routine. Proviso to Order 6 Rule 17 CPC, provides as under:-

“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 the trial.”

7. **In Vidyabai and others Vs. Padmalatha and another (2009) 2 SCC 409**, Hon’ble Supreme Court has held that the proviso is couched in a mandatory terms. Court’s jurisdiction to allow an application for amendment is taken away unless the conditions precedent therefore are satisfied viz that Court must come to the conclusion that inspite of due diligence a party could not have raised the matter before the commencement of the trial. Unless this condition is satisfied, application for amendment cannot be acceded to. In **Basavaraj Versus Indira and others (2024) 3 SCC 705**, Supreme Court has observed that amendment of the pleadings is not a matter of



right and burden lies on the party seeking amendment after the commencement of trial to show that despite due diligence, such an amendment could not be sought earlier. The plea of oversight cannot be accepted as a ground to allow any amendment in the pleadings when all the facts were to the knowledge of the party.

8. Adverting to the facts of the present case, it is evident that issues were framed by the trial Court. Plaintiff was leading evidence and had examined himself as a witness when application, Annexure P-3, for alteration of the written statement was filed. Sole ground given in the application is that defendants were not aware of the legal aspects of the case. They claim that their counsel did not guide them and it was only when they engaged another counsel that they became aware of the lacuna in the written statement. In the opinion of this Court, this does not constitute a sufficient ground for permitting the amendment, which is not necessary for determining the real question in controversy between the parties. Petitioners have failed to show that they have exercised due care and diligence or that for reasons beyond their control, they could not plead the legal aspect in the original written statement. Petitioners intend to introduce a new plea in the written statement, which would necessitate the framing of an additional issue. This is impermissible and would undoubtedly result in the delay of the conclusion of the trial. This Court does not



find any illegality or perversity in the order passed by the trial Court, which does not call for any interference.

9. Petition sans merit and is dismissed though with no order as to costs.

10. Miscellaneous applications also stand disposed of.

15.07.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No