**CR-948-2025 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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CR-948-2025 (O&M)

Date of decision: 13.02.2025

Daljit Singh and others

... Petitioners

Vs.

Rajvir Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Abdul Aziz, Advocate and
Mr. Himanshu Singh, Advocate
for the petitioners

SUVIR SEHGAL J.

1. By way of instant revision petition filed under Article 227 of the Constitution of India, petitioners-defendants No. 2 to 5 have approached this Court, assailing order dated 08.01.2025, Annexure P-7, passed by the learned Civil Judge (Junior Division), Malerkotla, whereby an application for amendment of the written statement has been dismissed.

2. Mr. Abdul Aziz, counsel for the petitioners has contended that respondent No.1-plaintiff filed a suit for recovery of Rs.10,02,000/-, which is being contested by the defendants and issues

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have been framed on the basis of the pleadings of the parties. He asserts that the petitioners had narrated all the facts to their counsel and handed over the documents to him for filing the written statement, but he failed to mention that the pronote which formed the basis of the suit, had been misused by the plaintiff in connivance with one Jarmal Singh. On discovering this fact, application dated 07.10.2024, Annexure P-4, was filed for the amendment of the written statement, which after contest, has been rejected by the impugned order. Asserting that the amendment is necessary for the just and proper decision of the case, he has placed reliance upon the judgments of the Supreme Court in ***Usha Balashaheb Swami and others Versus Kiran Appaso Swami and others, (2007) 5 SCC 602***, as well as ***Chander Kanta Bansal Versus Rajinder Singh Anand, (2008) 5 SCC 117***, to submit that the amendment should have been permitted.

3. I have heard counsel for the petitioners and considered his submissions.

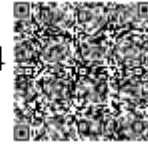
4. A suit for recovery of principal amount of Rs.7,50,000/- and interest of Rs.2,52,500/- alongwith future interest was filed by respondent No.1-plaintiff, on the basis of a pronote dated 17.11.2015. In their joint written statement, dated 15.05.2018, defendants No.1 to 3 and 5, denied that any loan was taken or any pronote or receipt was issued in favour of the plaintiffs. A specific stand had been taken by

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them that the pronote is a forged and fictitious document without any consideration. On the basis of the pleadings of the parties, trial Court framed issues on 28.01.2020. After the plaintiff concluded his evidence, an affidavit of one of the witnesses of the defendants was filed in evidence. At that stage, application, Annexure P-4, was filed by the petitioners for amendment of the written statement taking a stand that a blank signed pronote was got executed by one Jarmal Singh. It has been averred that plaintiff in connivance with said Jarmal Singh had misused the pronote and filed the suit for recovery.

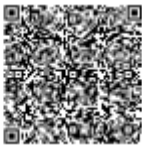
5. A totally new version is sought to be introduced by the petitioners alleging that they had narrated all the facts to the previous counsel, but he did not incorporate them in the written statement. The reason given by the petitioners falls flat in view of the fact that they have already examined one witness namely, Daljit Singh, who tendered his affidavit in support of the stand taken in the written statement. Amendment to the pleadings cannot be permitted in normal routine. Proviso to Order 6 Rule 17 of the Code of Civil Procedure, 1908, (for short 'CPC') reads 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 trial.”

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6. Supreme Court in **Vidyabai and others versus Padmalatha and another (2009)2 SCC 409**, has observed that the proviso is couched in a mandatory language and the Court's jurisdiction to allow such an application is taken away unless it comes to the conclusion that in spite of due diligence, the parties could not have raised the matter before the commencement of the trial. Issues in the case were framed way back in the year 2020 and the trial is at an advanced stage. Petitioners have not been able to show any material to satisfy the pre-condition of due diligence. The nature of amendment sought to be introduced is in fact a total contradiction to the stand taken by the petitioners in their written statement and would introduce a totally new case, which is impermissible.

7. Both the judgments relied upon by the counsel for the petitioners are not applicable. In **Usha Balashaheb Swami's** case (supra), Supreme Court accepted the application for amendment as it was moved before the framing of the issues. In **Chander Kanta Bansal's** case (supra), Supreme Court upheld the order passed by the Delhi High Court, dismissing an application as a document was sought to be introduced in amendment after a period of 18 years, even though, it existed prior to the commencement of the trial. The Court observed that the reason for adding proviso to Order 6 Rule 17 CPC, is to curtail delay and expedite hearing of cases. Impugned order does



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

8. Finding no merit in the revision petition, it is dismissed with no order as to costs.

13.02.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

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