



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

**Civil Revision No. 1833 of 2021 (O&M)
Date of Decision: 11.09.2025**

M/s. Smart View Hotels & Resorts
India Pvt. Ltd., Gurgaon and another

..... Petitioners

Versus

Harbati @ Harvati and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Tarun Yadav, Advocate and
Mr. Ashutosh Sharma, Advocate
for the petitioners-defendants.

Mr. Vinay Kumar Pandey, Advocate
for the respondents-plaintiffs.

HARKESH MANUJA, J. (ORAL)

The petitioners-defendants, by way of present revision petition, seek setting aside of an order dated 10.08.2021 (Annexure P-5) passed by the learned Civil Judge (Junior Division), Gurgaon, whereby their application under Order 6 Rule 17 read with Section 151 CPC asking for amendment of written statement, was dismissed.

[2] Briefly stating, the respondents-plaintiffs filed a suit for recovery for a sum of Rs. 94,12,500/- alongwith interest against the petitioners-defendants. In the suit, it was pleaded that the amount was given to the petitioners-defendants by demand drafts towards friendly loan which was never returned back.

[3] Upon notice, the petitioners-defendants appeared and filed written statement primarily denying the averments made in the plaint but without putting forth their own defence.

[4] Upon framing of issues on 02.07.2015, the matter was posted for evidence of respondents-plaintiffs. Later, on 28.03.2016, at the time of cross-examination of PW-1-Ajit son of Pritam Singh (plaintiff No. 2), learned counsel for the defendants-petitioners, for the first time put forth their defence to the witness in the form of suggestion, however, the same was objected to being beyond pleadings. Thereafter, the petitioners-defendants changed the counsel on 28.09.2016 and filed an application seeking amendment of written statement on 04.07.2017 while mentioning the details that besides denial of the averments made in the plaint, no defence was put forth on merits as per the advise rendered by the learned counsel representing them at the time of filing of original written statement though their counsel was duly made aware of such facts As such, it was prayed that the petitioners-defendants may be permitted to amend the written statement giving details of their defence. The said application was opposed at the instance of respondents-plaintiffs being an afterthought and also an act to fill up the lacuna.

[5] Learned trial Court, vide its order dated 10.08.2021 dismissed the prayer made on behalf of the petitioners for amendment in the written statement. Hence, the present revision petition.

[6] Learned counsel for the petitioners-defendants submits that the previous written statement was filed as per the advise rendered by the learned counsel representing them at that point in time, for which the

petitioners may not be made to suffer. He also submits that the defence sought to be put forth by way of amended written statement was essential for the complete adjudication of the suit in hand and would also help the Court to decide the *lis* in an effective manner; he thus prays that the revision petition needs to be allowed.

[7] On the other hand, learned counsel for the respondents-plaintiffs submits that from the facts and circumstances of the case in hand, it was apparent that the petitioners-defendants did not act in a *bona fide* and diligent manner and never remained vigilant about their rights and obligations to put forth the complete facts-defence in their written statement at the appropriate stage and thus, they were not entitled to seek amendment of written statement at this belated stage, when the plaintiffs' evidence was about to conclude. He thus submits that the impugned order warrants no interference and the present revision be thus dismissed.

[8] I have heard the learned counsel for the parties and considered their submission(s).

[9] A perusal of the record shows that the suit for recovery is based on the averments that a friendly loan was extended by the respondents-plaintiffs to the petitioners-defendants and the same was not returned. Though, in the written statement filed by the previous counsel before the learned trial Court, the contents stated in the plaint were denied, however, no supportive defence was ever put forth. It was only on 28.03.2016 when the plaintiff No. 2/PW-1 (Ajit) was being cross-examined, the defence of the petitioners-defendants on merits was put forth to the witness in the form of suggestion. Those questions were objected to by the

counsel representing the respondents-plaintiffs on the ground that the same were beyond pleadings.

[9.1] In such circumstances, the petitioners-defendants having changed their counsel moved an application for amendment of plaint so as to put forth the factual defence as part of their written statement. In the application for amendment of written statement, it was specifically stated that though the petitioners-defendants intended to disclose the complete facts in their written statement, however, as per the advice rendered by the counsel representing them at that point in time, the same could not be done.

Para-2 of the application to the aforesaid effect is extracted hereunder:-

“ 2. That the defendants have filed their written statement in the above mentioned suit. However, a careful perusal of the same reveals that the actual truth/ version of the defendants is conspicuously missing therein and the said written statement turns out to be a mere admission/ denial document. It is submitted by the defendants herein that the said actual facts were disclosed to the erstwhile counsel for the said defendants at the time of filing the written statement and various documents were shown to him in support of such facts, however, the said counsel advised the defendants herein that at the time of filing the written statement, the facts stated in the plaint have to be merely admitted or denied, as the case may be. The said counsel further advised the defendants that placing the entire truth with correct facts and documents at the time of filing the written statement would expose the defence of the defendants and the same would be prejudicial to his rights and interests, as the plaintiffs, during trial, would plug each and every loophole which might get exposed at such an early stage (of filing the written statement). The said

counsel further told the defendants that the case of the plaintiff has to stand on its own feet and it is the plaintiff who has to prove his case beyond any reasonable doubt and further advised the defendants that the correct stage to bring out the facts of the case/ version of the defendants and getting the documents exhibited in support thereof would be at the time of filing their evidence. The defendants acted upon the above advice of the said erstwhile counsel.”

[10] In the aforesaid circumstances, when the petitioners-defendants having engaged a lawyer were pursuing their litigation as per the advise rendered by him; cannot be made to suffer for the legal technicalities and the procedural aspects regarding which they were purely dependant upon their counsel. Though, no observation is being made at this stage against the previous counsel representing the petitioners-defendants as he surely acted as per his own legal wisdom at that stage, however, in such circumstances, adopting a pragmatic approach rather than going too technical on the procedure and also to do substantial justice between the parties, the prayer made by the petitioners-defendants for amendment of their written statement which appears to be material for adjudication of the *lis* in a complete and effective manner, is accepted. Moreover, in the given facts, no *mala fide* or even lack of due diligence was attributable to the petitioners-defendants, while pursuing the litigation.

[11] Accordingly, the impugned order dated 10.08.2021 (Annexure P-5) passed by the learned Civil Judge (Junior Division), Gurgaon, is set aside while granting an opportunity to the petitioners-defendants for filing of their amended written statement.

[12] Also, considering the fact that there has been delay on the part of petitioners-defendants in moving their application for amendment of the written statement and the suit filed at the instance of respondents-plaintiff is for recovery; the petitioners are saddled with costs of Rs.1,00,000/- (one lakh only) to be paid to the respondents-plaintiffs on the next date fixed before the trial Court, i.e. 18.09.2025, as a condition precedent for filing of the amended written statement.

[13] **Disposed off** accordingly.

[14] Pending miscellaneous application(s), if any, shall also stand disposed off.

September 11, 2025
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>