

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****135****CR-7829-2025(O&M)****Date of decision: 13.11.2025****Jagjit Singh & Others****...Petitioner(s)****Vs.****Gurcharan Singh****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. S.S. Ranghi, Senior Advocate with
Mr. Raman Preet Singh, Advocate
for the petitioners.

*********NIDHI GUPTA, J.**

Present Revision Petition has been filed by the defendants under Article 227 of the Constitution of India, seeking setting aside of order dated 02.09.2025 (Annexure P7) passed by learned Additional Civil Judge (Senior Division), Samana, whereby application filed by the petitioners under Order 6 Rule 17 read with Section 151 CPC for amendment of written statement, has been dismissed.

2. It is inter alia submitted by learned counsel for the petitioners that the amendment sought by the petitioners was innocuous in nature. No prejudice whatsoever will be caused to the respondent/plaintiff in case the said amendment is allowed. It is submitted that despite due diligence, the petitioners could not mention the proposed amendments in the written statement filed by them. The said amendments are very necessary for the



proper adjudication of the case. It is accordingly prayed that the impugned order be set aside. In support of his contentions, learned counsel relies upon judgment of Hon'ble Supreme Court in **Revajeetu Builders & Developers v. Narayanaswamy & Sons, (SC) : Law Finder Doc ID # 205047.**

3. No other argument is made on behalf of the petitioners.

4. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the petitioners.

5. Admittedly, the Civil Suit (Annexure P1) for declaration and permanent injunction in the present case was filed by the respondent/plaintiff in the year 2017; to which the petitioners had filed written statement (Annexure P2) only six years thereafter on 31.05.2023. The petitioners had then filed written statement to Amended Plaint dated 06.05.2024 (Annexure P4). Now, petitioners have moved the instant application under Order 6 Rule 17 CPC for amendment of the written statement on 22.01.2025 (Annexure P5), which has been dismissed vide impugned order.

6. Perusal of the said application (Annexure P5) shows that petitioners wish to incorporate the facts that defendant No.2 had sold 6 marla property in favour of one Paramjit Wadhwa vide Sale Deed dated 18.11.2016; who had further sold part of the said property to Smt. Gurdeep Kaur vide registered Sale Deed dated 03.03.2017. It is further stated in the said application that *"...and the mutation of the same was entered and*



sanctioned in favour of Smt. Gurdeep Kaur and Gurdeep Kaur being purchaser become owner in possession of the property covered under the sale deed mentioned above. Thereafter, Smt. Gurdeep Kaur constructed the Kothi in the property purchased by her, but at the time of filing the written statement, defendants inadvertently did not disclose all these above facts to their counsel and due to that reason above said material facts not mentioned in the written statement and the defendant wants to add the above facts at the end of para no.8 of the written statement on merits by way of amendment...

(Emphasis added)

7. Order 6 Rule 17 CPC reads as follows:-

“17. Amendment of pleadings. -The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

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.”

8. A bare reading of the above provision shows that no doubt, amendment is to be permitted in justiciable terms for the determination of the real controversy at hand. However, the said provision cannot be read in isolation of the proviso thereto, which further categorically stipulates “...no application for amendment shall be allowed after the trial is 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.” Thus, prior to permitting amendment, it is incumbent upon this Court to conclude that despite exercise of due diligence, the party seeking the amendment could not have pleaded the facts now sought to be incorporated.

8. In the present case, it is the own admitted case of the petitioners that the proposed amendment could not be mentioned in the written statement due to inadvertence. The facts in chronological order have already been noticed above. Issues in the present case were framed on 29.08.2024; whereafter trial had commenced. At time of filing of application for amendment under Order 6 Rule 17 CPC on dated 22.01.2025 (Annexure P5), two Prosecution Witnesses had already been examined. In the said application, it is categorically averred that the relevant facts could not be pleaded in the written statement due to ‘inadvertence’. It is therefore admitted that the said facts were in the knowledge of the petitioner even prior to filing of the written statement. Yet, the same do not find mention therein only due to oversight. It is therefore crystal clear that the petitioner has execrably failed to exercise due diligence as required under law.

10. It has been admitted by counsel for the petitioner that the facts of the proposed amendment were not included due to ‘oversight’. Needless to say, the above said reasons cited by the petitioner constitute no ground for permitting amendment. As per established tenets of law, inadvertence,



oversight, or sheer carelessness as in the present case, constitute no ground for permitting amendment. By way of amendment, the petitioners cannot be permitted to fill the lacunae in their case. Provision of Order 6 Rule 17 CPC is not to fill lacuna in the pleadings.

11. It is undisputed that the only situation in which amendment after commencement of trial is envisaged is if *'in spite of due diligence, the party could not have raised the matter before commencement of trial.'* In dealing with cases of such nature, there is necessity to delicately traverse the fine line between strict interpretation of the provision and proper adjudication of the matter and equitable construction of provision. In the present case it cannot be ignored that even though the said facts were in the knowledge of the petitioner, and are stated to be of utmost importance, yet it has not been mentioned in the written statement merely due to 'oversight'. It is my considered view, that in such a situation, amendment cannot be permitted.

12. Moreover, it cannot be ignored that the present application under Order 6 Rule 17 CPC for amendment has been filed by the petitioner much after trial had commenced – which, in itself is not permitted as per law. Admittedly, plaintiff evidence has commenced. Therefore, it would be grossly prejudicial and inequitable to the respondent if amendment is permitted at this belated stage.



13. This Court is well aware of the precedent case law holding that in applications of such nature a liberal view ought to be taken. However, keeping in view the entirety of the above noted facts and circumstances of the case, this Court is not convinced to grant the prayer of the petitioner. I am supported in my view by recent judgment dated 29.2.2024, of the Hon'ble Supreme Court in **Basavaraj v. Indira (SC) : Law Finder Doc Id # 2510571** wherein it is held that: -

"Amendment of pleadings – Oversight cannot be accepted as a ground to allow any amendment in the pleadings at the fag end of the trial."

14. Reference may also be made to another judgment of the Hon'ble Supreme Court in **Pandit Malhari Mahale v. Monika Pandit Mahale, (SC) : Law Finder Doc Id # 1691426** wherein it is held as under: -

"Civil Procedure Code, 1908, Order 6, Rule 17 - Amendment of Plaint - Amendment application filed after evidence begun - In absence of any finding that Court is satisfied in spite of due diligence, party could not introduce amendment before commencement of trial - Therefore, amendment of plaint unsustainable and set aside."

15. This Court in **Rati Ram v. Inder (P&H) : Law Finder Doc Id # 244372** has held as under:-

"Civil Procedure Code, 1908, Order 6, Rule 17 - Amendment of Pleadings - Amendment cannot be allowed as a matter of right -Amendment was not at all necessary to determine the real controversy between the parties - The application was not bona fide as such, it was only filed to delay the proceeding



further when the suit remained pending for seven years - Amendment right decline.”

16. Again in “**K.B. Sharma Vs. Shri Keerti Karan Dharni**” (P&H) Law

Finder Doc ID # 205192, this Court has held that: -

“A. Civil Procedure Code, 1908, Order 6, Rule 17, Proviso - Amendment of written statement - After the commencement of trial, amendment of pleadings cannot be allowed, until and unless, the party seeking amendment establishes that despite due diligence, it could not raise the pleas sought to be incorporated by way of amendment - Where defendant was already in knowledge of such pleas at the time of filing the original written statement - Amendment cannot be allowed.”

17. In view of the above noted factual and legal position, the present petition is **dismissed**.

18. Pending application(s) if any also stand(s) disposed of.

13.11.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No