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Harbans Singh Vs Gurdip Singh and Others

C.R. No. 1861 of 2013

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 9, 2013

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Order 6 Rule 17#Constitution of India, 1950 â€" Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: G.S. Sandhu, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.
In this revision petition filed under Article 227 of the Constitution of India, challenge is to order dated 01.03.2013

(Annexure P-1) passed by learned trial court, thereby dismissing application (Annexure P-2) moved by plaintiffs (petitioner and proforma

respondent no. 23) for amendment of plaint. The plaintiffs alleged in their amendment application that they had instructed their counsel in the trial

court, while drafting the plaint, for incorporating the facts now sought to be pleaded by amendment, but the counsel inadvertently did not do so.

2. I have heard counsel for the petitioner and perused the case file.

3. Counsel for the petitioner reiterated the aforesaid contention raised in the amendment application. However, the same cannot be accepted.

There was no reason why the counsel for the plaintiffs would not have incorporated all these detailed and material facts running into more than two

foolscap pages. The plaintiffs, by amendment of plaint, want to completely overhaul the plaint by pleading many new facts, which had not been

pleaded in the original plaint.

4. In addition to the aforesaid, the amendment application was moved at fag end of the trial, when the suit was fixed for rebuttal evidence of the

plaintiffs. In view of proviso to Order 6 Rule 17 of the Code of Civil Procedure, amendment of pleading cannot be allowed after commencement

of trial unless the party seeking amendment could not have raised the matter before commencement of trial in spite of exercise of due diligence. In

the instant case, it cannot be said that the plaintiffs could not have raised the plea (sought to be raised by amendment of plaint) before

commencement of trial, even after exercise of due diligence. Consequently, amendment of plaint has been rightly declined by the trial court. For the

reasons aforesaid, I find no perversity, illegality or jurisdictional error in the impugned order of the trial court so as to call for interference by this

Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The revision petition lacks any merit and is accordingly

dismissed in limine.