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

(140)

CR-599-2025

Date of decision:- 29.01.2025

Inder Singh

... Petitioner

Versus

Anil Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Abhishek Sharma, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. Instant revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 11.12.2024, Annexure P-9, whereby learned Civil Judge (Junior Division), Ludhiana has dismissed an application filed by the petitioner-plaintiff under Order 6 Rule 17, CPC for amendment of the plaint.
2. Counsel for the petitioner urges that as the petitioner is not a very literate person and does not know the intricacies of law, he could not inform his counsel about agreement to sell dated 21.04.2011, which could not be incorporated into the plaint. Placing reliance upon the judgments of the Supreme Court in **Rajesh Kumar Aggarwal and others Versus K.K.Modi and others, (2006) 4 SCC 385** and **Life Insurance Corporation of India Versus Sanjeev Builders Private Limited and another, (2018) 11 SCC 722**, it has been contended that the Trial Court has erred in rejecting the application for amendment.
3. I have heard counsel for the petitioner and considered his submission.

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4. Undisputedly, civil suit was preferred by the petitioner in the year 2014, whereby he sought a decree for specific performance of agreement to sell dated 24.09.2012 and permanent injunction against the defendant-respondent restraining him from alienating the suit property. Upon service, respondent filed a written statement-cum-counter claim dated 08.03.2017, Annexure P-2, wherein he specifically mentioned the agreement to sell dated 21.04.2011 and took an objection that the petitioner has deliberately concealed the document from the Court. Although, petitioner led evidence regarding the agreement, but he did not take any step to amend the plaint. Application for amendment, Annexure P-7, has been moved by the petitioner on 13.09.2024, after his evidence has been closed. The plea that the petitioner is not much literate is not borne out from the record and has been taken to cover his lapse. Order 6 Rule 17, CPC, as substituted in the year 2002, provides that an application for amendment cannot be allowed after the trial has commenced unless the Court is satisfied that the party seeking amendment has shown due diligence. There is no explanation about the delay in moving the application. This Court is of the view that the petitioner has failed to exercise due diligence.

5. In *Basavaraj Versus Indira and others (2024) 3 SCC 704*, Supreme Court has observed that amendment of the plaint is not a matter of right and burden is on the party seeking amendment after commencement of trial to show that inspite of due diligence, such amendment could not be sought earlier. Plea of oversight cannot be accepted as a ground to allow any amendment in the pleadings when facts were to the knowledge of the

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party. Judgments relied upon by the counsel are not applicable to the facts of the case. There was no error or illegality in the impugned order.

6. Petition is dismissed.

29.01.2025

*Kamal***(SUVIR SEHGAL)
JUDGE**

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