



CR-1344-2025 (O&M)

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

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Date of decision: 04.03.2025

Om Kant

... Petitioner

Vs.

Ajeev Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Satpreet Grewal, Advocate
for the petitioner.

SUVIR SEHGAL J.

1. By way of instant revision petition, petitioner/defendant No.1 has approached this Court, assailing order dated 14.01.2025, whereby an application filed under Order 6 Rule 17 CPC for amendment of counter claim has been declined.
2. Counsel for the petitioner has asserted that the petitioner merely wanted to add a line "*and from 07.11.1992 i.e. installation of meter connection on the suit property*" in the counter claim filed by the defendants and the trial Court has erred in rejecting the application. She states that an opportunity be given to the petitioner to incorporate this sentence, subject to payment of any reasonable cost.
3. I have heard counsel for the petitioner and considered her submissions.



4. Respondents No.1 to 5/plaintiffs filed a suit for possession, Annexure P-1, claiming that they are joint owners in possession of land measuring 9 Marlas in Village Shien Chathial, Tehsil Dasuya, District Hoshiarpur. Pleading that the defendants have encroached upon the suit land, it was stated that on an application filed by them, land was demarcated and a Local Commissioner gave his report dated 11.11.2018, which shows that the defendants are in illegal possession. Upon being served, defendant filed a written statement, Annexure P-2, contesting the suit and raised a counter claim by taking a stand that they have constructed residential houses on the suit land and have also installed the electricity meters in their respective houses. Another plea was taken by them that they are residing in the houses for the last more than 40 years and the suit for possession filed by the plaintiff is barred by time. On the basis of the pleadings of the parties, trial Court framed issues on 29.11.2021. Plaintiffs closed their evidence in affirmative on 27.03.2023 and the evidence of the defendants was closed on 26.11.2024. Proceedings were adjourned for leading evidence in rebuttal, if any, when the application, Annexure P-5, was filed, by the defendants for amendment of the counter claim, which has been dismissed vide order impugned herein.

5. A perusal of the application, Annexure P-5, shows that the defendants claim that inadvertently, they did not mention the date of installation of the electricity connection. An assertion has been made by them that the proposed amendment would not change the nature of the



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counter claim and the incorporation is necessary for the decision of the suit on merits. In *Basavaraj Versus Indira and others, (2024) 3 SCC 705*, Supreme Court has held that the burden is on the party seeking amendment after the commencement of the trial, to show that inspite of due diligence such amendment could not be brought about earlier. No reason whatsoever has been assigned by the petitioner to explain the delay in moving the application. The ground that the amendment could not be brought about due to an oversight cannot be accepted. The application is totally silent on the delay of almost 3½ years in its filing. Order 6 Rule 17 CPC is couched in a mandatory language and in case a party fails to show due diligence, no indulgence can be shown. The application has been rightly rejected by the Trial Court. This Court does not find any illegality or irregularity in the order passed by the trial Court.

6. Petition being devoid of merit, is dismissed though with no order as to costs.

7. As the main petition has been decided, all pending applications shall also stands disposed of.

04.03.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

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