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

CR-4489-2022

Date of decision: 16.09.2025

Gurdas Singh

...Petitioner

Versus

Gurdeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Prabhjot Singh, Advocate for the petitioner.

Mr. Rahul Arora, Advocate for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside order dated 14.07.2022 (Annexure P-6) passed by the trial Court whereby the application filed by the petitioner-defendant under Order 6 Rule 17 CPC for amendment of the written statement has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONER:-

2. Learned counsel for the petitioner has submitted that the respondent-plaintiff had filed a suit for possession by way of specific performance of agreement to sell dated 12.12.2017 with respect to the suit property and in the said case, the petitioner had filed written statement in



which it had been stated that agreement was result of forgery, fraud, criminal breach of trust, undue influence and the petitioner had also taken the plea that the petitioner borrowed a sum of Rs.80,000/- from the plaintiff and the plaintiff had obtained blank signed stamp papers for security purposes and the entire money was paid back. It is submitted that thereafter on 26.11.2021, an application under Order 6 Rule 17 CPC read with Section 151 CPC was filed for amendment of the written statement and the petitioner also wanted to take the plea that money was borrowed on 06.06.2012 and even promissory notes were also issued and the petitioner was wanting to elaborate his earlier plea. It is submitted that however, the said application for amendment has been dismissed vide impugned order dated 14.07.2022 which order deserves to be set aside and the application filed by the petitioner for amendment of the written statement deserves to be allowed.

ARGUMENTS ON BEHALF OF THE RESPONDENT:-

3. Learned counsel for the respondent, on the other hand, has submitted that in the present case, the issues were framed on 27.04.2021 and PW1 and PW2 had filed their affidavits on 11.10.2021 and it is only thereafter that the application for amendment of the written statement dated 26.11.2021 was filed by the present petitioner. It is submitted that it is apparent that the said application was filed after commencement of the trial and all the facts which are now sought to be added in the written statement were already within the knowledge of the petitioner and thus, amendment was hit by the proviso to Order 6 Rule 17 CPC and was impermissible. In support of his arguments, he has relied upon judgment passed by the



Hon'ble Supreme Court in case titled as "*Vidyabai and others Vs. Padmalatha and another*" reported as 2009(2) SCC 409. It is further submitted that the petitioner is wanting to raise new defence by pleading issuance of promissory notes etc. which were never pleaded by the petitioner in the written statement. It is submitted that even the fact that money was borrowed from the plaintiff allegedly at 3% per month rate of interest was sought to be added and also various incidents of 06.06.2012, 18.12.2014 and 12.12.2017 were sought to be added and thus, the petitioner is wanting to completely change his defence. It is further submitted that the petitioner has taken contrary pleas as on one hand, he has taken the plea that agreement to sell is forged, fabricated and has been executed under undue influence and on the other hand, the petitioner is taking the plea that agreement was entered into as a security document. It is thus, submitted that the impugned order is in accordance with law and deserves to be upheld.

ANALYSIS AND FINDINGS:-

4. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

5. It is not in dispute that the respondent had filed a suit for possession by way of specific performance on the basis of agreement to sell dated 12.12.2017 with respect to the suit land. The said suit was filed on 19.06.2020. Written statement was filed by the petitioner to the said suit and said written statement dated 12.03.2021 has been placed on record as



Annexure P-2. It is not in dispute before this Court that the issues in the present case were framed on 27.04.2021 and two plaintiff witnesses i.e., PW1 and PW2 were examined in chief on 11.10.2021 and thus, the trial had commenced. Subsequent to the trial having commenced, the petitioner/defendant filed an application for amendment of the written statement dated 26.11.2021 (Annexure P-3). It is not disputed before this Court that all the pleas including the dates which are sought to be mentioned in the amended written statement are all prior to the date on which original written statement was drafted and thus, all the said pleas which are now sought to be raised in the proposed amended written statement were available to the petitioner prior to the date of filing of the original written statement. The trial Court had dismissed the said application for amendment by observing that the petitioner had failed to show due diligence on his part and had further observed that new defence was sought to be taken by the petitioner and the pleas raised by the petitioner were inconsistent and vague.

6. Proviso to Order 6 Rule 17 CPC has been incorporated on 01.07.2002 and the said provision reads as under:-

“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.”

A perusal of the above provision would show that it has been specifically mentioned in the proviso 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 raise the matter before commencement of the trial.

7. The Hon’ble Supreme Court in the case of **Ajendraprasadji N. Pande and another Vs. Swami Keshavprakeshdasji N. and others**, reported as **2006(12) SCC 1**, had observed that trial is deemed to commence when the issues are settled and the case is set down for recording of evidence and for the purpose of satisfying the requirement of Order 6 Rule 17 CPC (as amended), the necessary particulars are required to be mentioned in the application which would satisfy the requirement of law.

8. The Hon’ble Supreme Court in the case of ***Vidyabai and others*** (Supra) had further observed that the proviso to Order 6 Rule 17 CPC restricts the power of the Court and it puts an embargo on the exercise of its jurisdiction and the Court’s jurisdiction in a case where amendment is sought after the commencement of the trial is limited. In the said case, defendants therein had moved an application for amendment after issues had been framed and the plaintiffs’ witnesses therein had filed affidavit by way of evidence and the trial Court had dismissed the application under Order 6 Rule 17 CPC whereas the High Court had allowed the said application under Order 6 Rule 17 CPC. The Hon’ble Supreme Court, after considering the law on the point and also after taking into consideration the proviso to Order 6 Rule 17 CPC had set aside the order of the High Court



and had upheld the order of the trial Court dismissing the application. Additionally, it was observed that the High Court while setting aside the order did not satisfy the test of judicial review and it had not been found that the trial Court had exceeded its jurisdiction in passing the impugned order therein nor it had been found that there was any error of law committed by the trial Court. The law laid down in the abovesaid case would fully apply in the present case as it is not in dispute that there was no due diligence in filing the application for amendment and thus, amendment sought was hit by the proviso to Order 6 Rule 17 CPC.

9. The Hon'ble Supreme Court in the case of **“Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil”**, reported as **(2010) 8 Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.



It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

10. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

16.09.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**