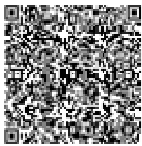




2025:PHHC:022366



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(121)

CR-977-2025
Date of Decision: 15.02.2025

M/s Omaxe Chandigarh Extension Development Pvt. Ltd.

.....Petitioner

Versus

Amrik Singh and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Tejeshwar Singh, Advocate, with
Ms. Dewangana Chhillar, Advocate, for the petitioner.

SUDEEPTI SHARMA, J.(ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 23.01.2025 (Annexure P-4) passed by learned Addl. Civil Judge, (Sr. Divn.) Kharar, SAS Nagar, whereby the application filed by the petitioner under Order VI Rule 17 Code of Civil Procedure dated 17.01.2025 (Annexure P-2) seeking amendment of plaint was dismissed.

2. Learned counsel for the petitioner contends that he filed a civil suit seeking, *inter alia*, a decree of possession by way of specific performance of agreement to sell dated 16.08.2017. He further contends that although all relevant details and particulars were included in the plaint, whereas, total sale consideration and the earnest money already paid to the defendants No.1 to 3

were inadvertently omitted from the headnote and prayer clause. He further

contends that the same are clearly stated in the pleadings of the suit. Learned counsel further contends that the case is now at the evidence stage and examination-in-chief of PW-1 has been done on 06.02.2025. He therefore, prays that present petition be allowed and the impugned order dated 17.01.2025 (Annexure P-2) be set aside.

3. I have heard learned counsel for the petitioner and perused the whole record of the case.

4. A perusal of record shows that petitioner filed a suit in which headnote and prayer clauses are reproduced as under:

HEADNOTE

“Suit for decree for possession by way of specific performance of agreement to sell 16.08.2017 executed by defendants No.1, 2 and 3 in favour of plaintiff whereby defendant No.1 agreed to sell his share of land measuring 16 kanal 9.5 marlas comprised in Khasra Nos.21//4 (8-0), 7 (7-19), 8/1 (0-9), 8/2 (0-7), 13 (1-7), 14 (7-18), 16 (2-16), 17 (3-15), 22//31 (10-15) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and defendant No.2 agreed to sell his share of land measuring 05 kanal 13 marlas comprised in Khasra No.22//28 (2-19), 21//26 (2-14) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and defendant. No.3 agreed to sell his share of land measuring 16 kanal 12.5 marla comprised in Khasra No.21//5 (7-19), comprised 6 (8-0), 15 (8-0), 22//11 (8-0), 22//12 (2-14), 22//31 (10-15) situated at Village Chahar Majra, situated H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 in favour of the plaintiff in the presence of the witnesses. And for decree for declaration that the sale deeds bearing Vasika Nos. 1461 dated 24.12.2018 in respect of land measuring 16 Kanal 5-1/2 marlas comprised in Khasra No.21//4

(8-0), 7(7-19), 8/1 (0-9), 8/2 (0-7), 13 (1-7), 14 (7-18), 16 (2-16), 17 (3-15), kittee 8 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and sale deed bearing Vasika No.1460 dated 24.12.2018 executed by defendants No.2 and 3 in favour of defendant No.4 in respect of land marlas measuring 17 Kanal 6-1/2 marlas comprised in Khasra No.21//5 (7-19), 6 (8-0), 15 (3-0), 22//11 (8-0), 12 (2-14), kittee 5 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for year 2015-2016 (ownership of Jagtar Singh is 26334/69300 of share and ownership of Saudagar Singh is 8316/69300 share) and vasika No.1459 dated 24.12.2018 in respect of land measuring 03 Kanal 04 marlas comprised in Khasra No.22//28 (2-19), 10/59 share i.e. 00 Kanal 10 marlas and Khasra No.21//26 (2-14) Salam situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed by defendant No.2 in favour of defendant No.4 And sale deed bearing Vasika No.1462 dated 24.12.2018 in respect of land measuring 01 Kanal 00 marla comprising in Khasra No.22//31 (10-15), 20/215 share measuring 01 kanal 00 marla situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed by defendant No.3 in favour of defendant No.4 are illegal, null and void, nullity, ineffective and inoperative against the rights of the plaintiff and for decree for mandatory injunction directing the defendants to join hands and execute and get register the sale deed of the land measuring 38 Kanal 15 marlas in favour of the plaintiff in terms of the agreement to sell dated 16.08.2017.

And

For decree for perpetual injunction restraining the defendants themselves or through their attorneys, agents or other men from alienating the said land or portion thereof to anybody else except the plaintiff and further restraining the defendants from changing the nature of the suit land on the basis of oral and

documentary evidence.”

Prayer Clause

It is, therefore, prayed that a decree for possession by way of specific performance of agreement to sell 16.08.2017 executed by defendants No.1, 2 and 3 in favour of plaintiff whereby defendant No.1 agreed to sell his share of land measuring 16 kanal 9.5 marlas comprised in Khasra Nos.21//4 (8-0), 7 (7-19), 8/1 (0-9), 8/2 (0-7), 13 (1-7), 14 (7-18), 16 (2-16), 17 (3-15), 22//31 (10-15) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and defendant No.2 agreed to sell his share of land measuring 05 kanal 13 marlas comprised in Khasra No.22//28 (2-19), 21//26 (2-14) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and defendant No.3 agreed to sell his share of land measuring 16 kanal 12.5 marla comprised in Khasra No.21//5 (7-19), 6 (8-0), 15 (8-0), 22//11 (8-0), 22//12 (2-14), 22//31 (10-15) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 in favour of the plaintiff in the presence of the witnesses. And for decree for declaration that the sale deeds bearing Vasika Nos.1461 dated 24.12.2018 in respect of land measuring 16 Kanal 5-1/2 marlas comprised in Khasra No.21//4 (8-0), 7(7-19), 8/1 (0-9), 8/2 (0-7), 13 (1-7), 14 (7-18), 16 (2-16), 17 (3-15), kittee 8 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and sale deed bearing Vasika No.1460 dated 24.12.2018 executed by defendants No.2 and 3 in favour of defendant No.4 in respect of land measuring 17 Kanal 6-1/2 marlas comprised in Khasra No.21//5 (7-19), 6 (8-0), 15 (8-0), 22//11 (8-0), 12 (2-14), kittee 5 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 (ownership of Jagtar Singh is 26334/69300 share And ownership of Saudagar

Singh is 8316/69300 share) and vasika No.1459 dated. 24.12.2018 in respect of land measuring 03 Kanal 04 marlas comprised in Khasra No.22//28 (2-19), 10/59 share i.e. 00 Kanal 10 marlas and Khasra No.21//26 (2-14) Salam situated at Village Chahar Majra, H.B.No.19, Sub. Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed defendant No.2 in favour of defendant No.4 And sale deed bearing Vasika No.1462 dated 24.12.2018 in respect of land measuring 01 Kanal 00 marla comprising in Khasra No.22//31 (10-15), 20/215 share measuring 01 kanal 00 Village Chahar Majra, situated marla at H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed by defendant No.3 in favour of defendant No.4 are illegal, null and void, nullity, ineffective and inoperative against the rights of the plaintiff and for decree for mandatory injunction directing the defendants to join hands and execute and get register the sale deed of the land measuring 38 Kanal 15 marlas in favour of the plaintiff in terms of the agreement to sell dated 16.08.2017. And for decree for perpetual injunction restraining the defendants themselves or through their attorneys, agents or other men from alienating the said land or portion thereof to anybody else except the plaintiff and further restraining the defendants from changing the nature of the suit land may kindly be passed in favour of the plaintiffs and against the defendants.

It is further prayed that any other additional or alternative relief, to which the plaintiffs may be found entitled to may also be granted to them in the interest of justice and equity.”

5. The amendment which the petitioner sought by way of filing application under Order VI Rule 17 CPC is reproduced as under:

HEAD NOTE

“Suit for decree for possession by way of specific performance of agreement to sell 16-08-2017 executed by

*defendants No.1, 2 and 3 in favour of plaintiff whereby defendant No. 1 agreed to sell his share of land measuring 16 kanal 9.5 marlas comprised in Khasra Nos. 21//4 (8-0), 7 (7-19), 8/1 (0-9), 8/2 (0-7), 13(1-7), 14 (7-18), 16 (2-16), 17 (3-15), 22//31 (10-15) situated at Village Chahar Majra, H.B. No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and defendant No. 2 agreed to sell his share of land measuring 05 kanal 13 marlas comprised in Khasra No.22//28 (2-19) 21//26 (2-14) situated at Village Chahar Majra, H.B. No.19, Sub Tehsil Majri, Tehsil Kharar. District SAS Nagar as per jamabandi for the year 2015-2016 and defendant No.3 agreed to sell his share of land measuring 16 kanal 12.5 marla comprised in Khasra No.21//5(7-19)6 (8-0) 15 (8-0), 22//11 (8-0), 22//12 (2-14) 22//31(10-15) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 in favour of the plaintiff in the presence of the witnesses **after payment of Rs.12,07,62,624/-i.e. the balance sale consideration or whatever amount as adjudged by the Honorable court after deducting earnest money of Rs.25,00,000/- paid by the plaintiff to the defendants.***

And for decree for declaration that the sale deeds bearing Vasika Nos. 1461 dated 24-12-2018 in respect of land measuring 16 Kanal 5-1/2 marlas comprised in Khasra No. 21//4 (8-0), 7(7-19), 8/1 (0-9), 8/2 (0-7) 13 (1-7), 14 (7-18), 16 (2-16), 17(3-15), kittee 8 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and sale deed bearing Vasika No. 1460 dated 24-12-2018 executed by defendants No.2 and 3 in favour of defendant No.4 in respect of land measuring 17 Kanal 6-1/2 marlas comprised in Khara No.21//5 (7-19), 6 (8-0), 15 (8-0), 22//11 (8-0), 12 (2-14), kittee 5 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar. District SAS Nagar as per jamabandi for the year 2015-2016 (ownership of Jagtar Singh is 26334/69300 share. And ownership of Saudagar Singh is 8316/69300 share) and vasika No.1459 dated 24-12-2018 in respect of land measuring 03 Kanal 04 marlas comprised in

Khasra No. 22//28 (2-19), 10/59 share i.e. 00 Kanal 10 marlas and Khasra No. 21//26 (2-14) Salam situated at Village Chahar Majra, H.B. No. 19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed by defendant No. 2 in favour of defendant No. 4. And sale deed bearing Vasika No. 1462 dated 24-12-2018 in respect of land measuring 01 Kanal 00 marla comprising in Khasra No. 22//31 (10-15), 20/215 share measuring 01 kanal 00 marla situated at Village Chahar Majra, H.B. No. 19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed by defendant No. 3 in favour of defendant No. 4 are illegal, null and void, nullity, ineffective and inoperative against the rights of the plaintiff and for decree for mandatory injunction directing the defendants to join hands and execute and get register the sale deed of the land measuring 38 Kanal 15 marlas in favour of the plaintiff in terms of the agreement to sell dated 16-08-2017.

AND For decree for perpetual injunction restraining the defendants themselves or through their attorneys, agents or other men from alienating the said land or portion thereof to anybody else except the plaintiff and further restraining the defendants from changing the nature of the suit land, on the basis of oral and documentary evidence.

PRAYER CLAUSE

"It is, therefore, prayed that a decree for possession by way of specific performance of agreement to sell 16-08-2017 executed by defendants No. 1, 2 and 3 in favour of plaintiff whereby defendant No. 1 agreed to sell his share of land measuring 16 kanal 9.5 marlas comprised in Khasra Nos. 21//4 (8-0), 7 (7-19), 8/1 (0-9), 8/2 (0-7), 13(1-7), 14 (7-18), 16 (2-16), 17 (3-15), 22//31 (10-15) situated at Village Chahar Majra, H.B. No. 19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 and defendant No. 2 agreed to sell his share of land Measuring 05 kanal 13 marlas comprised in Khasra No. 22//28 (2-19) 21//26 (2-14) situated at Village Chahar Majra, H.B. No. 19, Sub Tehsil Majri, Tehsil Kharar, District SAS

*Nagar as per jamabandi for the year 2015-2016 and defendant No.3 agreed to sell his share of land measuring 16 kanal 12.5 marla comprised in Khasra No. 21//5 (7-19), 6 (8-0), 15 (8-0), 22//11 (8-0), 22/12 (2-14), 22//31(10-15) situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 in favour of the plaintiff in the presence of the witnesses **after payment of Rs. 12,07,62,624/-i.e. the balance sale consideration or whatever amount as adjudged by the Honorable court after deducting earnest money of Rs.25,00,000/- paid by the plaintiff to the defendants.** And for decree for declaration that the sale deeds bearing Vasika Nos. 1461 dated 24-12-2018 in respect of land measuring 16 Kanal 5-1/2 marlas comprised in Khasra No. 21//4 (8-0), 7(7-19), 8/1 (0-9), 8/2 (0-7) 13 (1-7), 14 (7-18), 16 (2-16), 17(3-15), kittee 8 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamahandi for the year 2015-2016 and sale deed bearing Vasika No. 1460 dated 24-12-2018 executed by defendants No.2 and 3 in favour of defendant No.4 in respect of land measuring 17 Kanal 6-1/2 marlas comprised in Khara No.21//5 (7-19), 6 (8-0), 15 (8-0), 22/11 (8-0), 12 (2-14), kittee 5 situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 (ownership of Jagtar Singh is 26334/69300 share And ownership of Saudagar Singh is 8316/69300 share) and vasika No.1459 dated 24-12-2018 in respect of land measuring 03 Kanal 04 marlas comprised in Khasra No. 22//28 (2-19), 10/59 share i.e. 00 Kanal 10 marlas and Khasra No.21//26 (2-14) Salam situated at Village Chahar Majra, H.B. No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year 2015-2016 executed defendant No.2 in favour of defendant No.4. And sale deed bearing Vasika No.1462 dated 24-12-2018 in respect of land measuring 01 Kanal 00 marla comprising in Khasra No.22//31(10-15), 20/215 share measuring 01 kanal 00 marla situated at Village Chahar Majra, H.B.No.19, Sub Tehsil Majri, Tehsil Kharar, District SAS Nagar as per jamabandi for the year*

2015-2016 executed by defendant No.3 in favour of defendant No.4 are illegal, null and void, nullity, ineffective and inoperative against the rights of the plaintiff and for decree for mandatory injunction directing the defendants to join hands and execute and get register the sale deed of the land measuring 38 Kanal 15 marlas in favour of the plaintiff in terms of the agreement to sell dated 16-08-2017. AND For deeree for perpetual injunction. restraining the defendants themselves or through their attorneys, agents or other men from alienating the said land or portion thereof to anybody else except the plaintiff and further restraining the defendants from changing the nature of the the suit land may kindly be passed in favour of the plaintiff and against the defendants.

It is further prayed that any other additional or alternative relief to which the plaintiff may be found entitled to may also be granted to them in the interest of justice and equity.

A perusal of the above shows that the only amendment which the petitioner sought in the headnote and prayer clause is as under:

“after payment of Rs.12,07,62,624/-i.e. the balance sale consideration or whatever amount as adjudged by the Honorable court after deducting earnest money of Rs.25,00,000/- paid by the plaintiff to the defendants.”

6. A perusal of the pleadings show that the amendment which the petitioner sought by way of filing the application dated 17.01.2025 (Annexure P-4) is already pleaded in the body of the main suit.

7. The only reasoning given by the learned trial Court while rejecting the application filed under Order VI Rule 17 by the petitioner is that amendment which the petitioner sought is not as per the proforma in which it is required to be filed, which is not acceptable to this Court. Further no prejudice would be caused to the respondents if the present petition is allowed

as amendment sought will not change the nature of the suit as well as issues which are already framed.

8. In view of the above, the order dated 23.01.2025 (Annexure P-4) is set aside. Since the case is now fixed for 19.02.2025, the petitioner is directed to file an amended plaint as prayed for in the present petition as referred to above. Learned trial Court is directed to proceed further in the matter in accordance with law after taking into consideration the amended plaint.

9. Pending application(s), if any, also stands disposed of.

(SUDEEPTI SHARMA)
JUDGE

15.02.2025
anil

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No