

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 2961 of 2019 (O&M)**

**Date of Decision: 14.09.2022**

Balwinder Singh alias Jaswinder Singh and Another

... Petitioner(s)

Versus

Jarnail Kaur and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Sherry K. Singla, Advocate  
for the petitioner(s).

Mr. Deepak Aggarwal, Advocate  
for the respondent No.1.

**Anil Kshetarpal, J.**

1. The petitioners' (defendant No.1 and 2) application for permission to amend the written statement in order to assert that they have received the property in exchange has been dismissed.

2. The plaintiff (respondent No.1 herein) has filed a suit for possession under Section 6 of the Specific Relief Act, 1963. The defendants, after filing the written statement, have filed an application for permission to amend the same on the ground that the plaintiffs' husband, while filing a separate suit against them, has himself asserted that about 40 years ago, their predecessors-in-interest, namely Sh.Mukhtiar Singh along with Sh.Darshan Singh, had orally exchanged the property in dispute with the plaintiff. The trial Court has dismissed the application on the ground that the defendant No.1 and 2 have already filed a written statement and there is a substantial

3. The amendment sought by the defendant No.1 and 2 is substantive. It is based upon the pleadings of the suit filed by the husband of the plaintiff. It will be important for the Court to analyze the aforesaid defence particularly when the suit is for possession. For delay, the plaintiff can be compensated with cost. However, the defendants cannot be deprived of an opportunity to put forth their case. It is well known that the rules of procedure are the handmaids of justice. The Supreme Court in a recent judgment rendered in *Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another* 2022 SCC online SC 1128 has explained the scope of power of the Court while allowing amendments. The Supreme Court has concluded that if the amendment sought is substantive and the parties have not suffered any major prejudice, apart from the delay, the Court should allow the amendment.

4. Keeping in view the aforesaid facts, the present revision petition is allowed and the impugned order dated 16.03.2019 is ordered to be set aside. The defendant No.1 and 2 shall be permitted to file an amended written statement, if not already filed. It shall be subject to cost of ₹ 5000/-, which shall be paid to the plaintiff through a demand draft.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

**(Anil Kshetarpal)**  
**Judge**

**September 14, 2022**  
**“DK”**

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