

**CR-971-2023 (O&M)**  
**DATE OF DECISION: 13.07.2023**

**.....PETITIONERS**

HARDEEP SINGH AND ANOTHER

## .....RESPONDENTS

**Present:** Mr. Karanjit Singh, Advocate  
for the petitioners.

Mr. Ashish Aggarwal, Advocate  
for the respondents.

**VIKRAM AGGARWAL, J (ORAL)**

1. The present Revision Petition assails the order dated 20.01.2023 passed by the Civil Judge (Junior Division), Amritsar vide which the application filed by the petitioners-plaintiffs under Order 6 Rule 17 CPC for amendment of plaint was dismissed.

2. The petitioners-plaintiffs filed a suit for Permanent Injunction restraining the respondents-defendants from dispossessing the petitioners-plaintiffs and from interfering in their peaceful possession over land measuring 25 Kanals-6 Marlas situated in village Varpal, Tehsil and District Amritsar (fully described in the plaint). It was also stated that the alleged lease from 09.10.1999 to 06.10.2099 executed by S. Karam Singh in favour of his sons i.e. the present respondents-defendants was null and void as he could not lease out land in excess of his share. During the pendency of the suit, an application (Annexure P-1) was filed under Order 6 Rule 17 CPC for amendment of the plaint.

3. Paragraph 5A was sought to be introduced in the plaint. Essentially two averments were made in the said paragraph, firstly with regard to the injunction order passed in the present suit having been violated by the respondents-defendants and contempt application under Order 39 Rule 2A CPC having been filed against them. The second averment was with regard to a previous suit titled as ***“Hardeep Singh and another Vs. Jeewan Singh and another”*** for Permanent Injunction having been dismissed in default in which reliance was placed upon a similar lease deed as was being relied upon in the present suit. The application was opposed and by way of the impugned order, the same was dismissed leading to the filing of the present Revision Petition.

4. Learned counsel for the petitioners has contended that the trial Court erred in dismissing the application for amendment. It has been contended that the application had been filed at the right stage because as of now evidence of the petitioners-plaintiffs is going on and that the proposed amendment will not change the nature of the suit.

5. On the other hand, learned counsel for the respondents has submitted that there is no illegality or infirmity in the impugned order as the amendment proposed to be made is not relevant to the controversy in hand and, therefore, the same was rightly declined.

6. I have considered the submissions made by learned counsel for the parties.

7. Though the plaint has not been annexed with the present petition, the same was duly produced by learned counsel for the petitioners during the course of arguments. The same has been perused. The suit filed by the present petitioners-plaintiffs is a suit for Permanent Injunction restraining the respondents-defendants from dispossessing and/or interfering in the peaceful possession of the petitioners-

plaintiffs over land measuring 25Kansals-6Marlas (fully described in the plaint) situated in Village Varpal, Tehsil and District Amritsar, being owned and possessed by the petitioners-plaintiffs and that the alleged lease with effect from 09.10.1999 to 06.10.2099 executed by S. Karam Singh in favour of the respondents-defendants was null and void as S. Karam Singh could not have leased out the land in excess of his share. During the pendency of the suit, the application for amendment (Annexure P-1) was moved and the following paragraph was sought to be introduced:-

*“5-A. That the defendants in the present suit failed to comply with the order passed in Injunction Application in the present case and flouted that order and tried to dispossess the plaintiffs from their land for which Contempt Application was filed against them under Order 39 Rule 2A and the same is pending in the court of S. Supinder Singh, Civil Judge, Junior Division, Amritsar for 10.01.2023.*

*That earlier a suit titled as Hardeep Singh & Another versus Jeewan Singh & another was filed by S. Hardeep Singh and S. Paramjit Singh Ss/o S. Karam Singh on 03.07.2017 and that suit was for Permanent Injunction restraining the defendants from interfering into the peaceful possession of the plaintiffs namely Hardeep Singh and Paramjit Singh over the land measuring 47Kansal-3Marle bearing khasra no.60//6(8-0), 60//14(8-0), 60//15(8-0), 60//7(8-0), 60//8(7-11), 60//13(7-12) situated in Village Varpal, Hadbast No.266, Tehsil Amritsar and District Amritsar and from dispossessing the plaintiffs from the said land forcibly, illegally and unauthorisedly that is except in due course of law. In that suit entire claim was on the basis of similar lease deed dated 11/10/1999 upon which lease deed the present defendants have relied upon in this case. It is worthwhile to mention here that in that case they claimed themselves to be in cultivating possession over the suit land. Further in that case the defendants of present case and plaintiffs in that case referred to an*

*FIR No.14 Under Section 420/467/468/471/120 B IPC which they got registered against S. Jeewan Singh and S. Harjinder Singh. And on that FIR no offence was found to be done by Jeewan Singh and Harjinder Singh by Police Department. The said suit was contested at length but at later stage they moved an application for amendment of plaint in that case alleging that their father S. Karam Singh was the lawful owner of the land measuring 47Kanal 3 Marle situated at Village Varpal, Habast No.266, Tehsil Amritsar and District Amritsar; whereas earlier the suit was only for Permanent Injunction claiming their possession only over the land measuring 47Kanal-3Marle. That application was contested properly and the same was finally dismissed on 13/11/2018 that means their stand of ownership of land has been decided against them and finally that suit also dismissed by the court of Ms. Nirmala Devi, Civil Judge, Junior Division, Amritsar vide order dated 18/02/2020 when the plaintiffs failed to produce their evidence the Hon'ble court Ms. Nirmala Devi, CJ (JD), Amritsar dismissed the suit of plaintiffs in default. The amendment referred to above may please be allowed to be incorporated in the plaint and the related documents may be allowed to be placed on record; so that the matter become crystal clear before this hon'ble court and justice may be imparted with the clarification of facts. Any other relief to which plaintiffs are found entitled to may please be granted in interest of justice, equity and fair play."*

8. Order 6 Rule 17 CPC lays down as under:-

*"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."*

9. A perusal of the above provision shows that permission can be granted to alter or amend the pleadings at any stage, preferably before the commencement of the trial 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 the trial. It also lays down that either party may be allowed to alter or amend the pleadings if they are so necessary for the purpose of determining the real questions in controversy between the parties. This Court finds that the pleadings sought to be introduced by way of paragraph 5A are not at all necessary for the purposes of determining the real questions in controversy between the parties. It would always be open to the petitioners-plaintiffs to prove these facts by leading evidence and it would not amount to leading evidence beyond pleadings. The trial Court, therefore, did not commit any error in rejecting the application.

In view of the aforesaid, I do not find any merit in the present Revision Petition and the same is accordingly dismissed.

13.07.2023  
Prince Chawla

(VIKRAM AGGARWAL)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |