



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

**127-A**

**CR-6214-2024 (O&M)**  
**Date of Decision : 28.10.2024**

GURINDER SINGH .... Petitioner

**VERSUS**

AMARJIT KAUR CHAHAL AND ORS .... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Raju Arora, Advocate for the petitioner.  
(joined through hybrid mode)

**ALKA SARIN, J. (ORAL)**

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 11.12.2023 passed by the learned Civil Judge (Junior Division), Ludhiana whereby the application filed by defendant No.1-petitioner herein seeking amendment of the written statement was dismissed.
2. Brief facts relevant to the present *lis* are that plaintiff-respondents No.1 to 4 herein filed a suit for possession by partition by metes and bounds. Defendant No.1-petitioner filed his written statement which has been appended with the instant petition as Annexure P-8. It is to be noted that the civil suit was filed on 03.12.2016. Thereafter, defendant No.1-petitioner was proceeded against *ex parte* vide order dated 26.07.2017. Subsequently, *ex parte* proceedings were set aside vide order dated 09.02.2023 and the defendant No.1-petitioner was permitted to file his written statement. The prayer in the application for amendment to the written

statement is for adding para No.10 as a preliminary objection raising the ground that plaintiff-respondents No.3 and 4 along with defendant No.2 (respondent No.5 herein) had filed an affidavit on 16.09.1988 relinquishing their shares in the property in dispute in favour of plaintiff-respondents No.1 and 2 and defendant No.1-petitioner herein and had given their no objection to the transfer of the property in favour of plaintiff-respondents No.1 and 2 and defendant No.1-petitioner herein in equal shares. Reply was filed to the said application. In reply it was stated that even in the previous litigation i.e. Civil Suit titled as 'Amarjeet Kaur Chahal V/s Gurinder Singh' bearing No.CS-231-2012 and the counter-claim there was no mention of the said affidavit. It was further averred that the parties have been litigating for over 10 years and no such alleged affidavit had ever been brought on the record. The application was dismissed vide impugned order dated 11.12.2023. Though the order impugned herein was earlier also challenged in a petition being CR-3329-2024, however, the said petition was dismissed as withdrawn with liberty to file afresh with better particulars vide order dated 29.05.2024. Hence, the present revision petition.

3. Learned counsel for the defendant No.1-petitioner would contend that the affidavit was filed in the year 1988 and defendant No.1-petitioner had no knowledge about the same. It was only while rummaging through the documents that defendant No.1-petitioner came across the said document and applied for a certified copy from the Municipal Corporation, Ludhiana and hence the application for amendment ought to have been allowed.

4. Heard.

5. In the present case a perusal of the application under Order 6 Rule 17 CPC reveals that there is not a whisper as to how defendant No.1-petitioner came across the present document. It merely states that an affidavit has come to the knowledge of defendant No.1-petitioner after the commencement of the trial while preparing cross-examination of PW, namely, Harpinder Kaur. There is not an averment regarding the arguments now raised by the counsel for defendant No.1-petitioner that a photocopy was discovered while rummaging through the documents and thereafter on an application the document was taken from the Municipal Corporation, Ludhiana. There is absolutely no explanation for not having taken this plea at the time of filing of the written statement. No doubt that law regarding amendment of the written statement is liberal, however, amendments cannot be allowed at the asking and there has to be some cogent reason which has to be given for allowing an amendment. The present suit has been pending since 2016 and even previously the parties have been litigating. Hence, in the absence of any details as to when and how the defendant No.1-petitioner is stated to have come across the present document and why the said document was not pleaded earlier in the written statement, no fault can be found with the impugned order passed by the Trial Court.

6. In view of the above, I do not find any merit in the present revision petition. The present revision petition, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

**28.10.2024**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

*NOTE:*

*Whether speaking/non-speaking: Speaking*

*Whether reportable: Yes/No*