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

CR-150-2019 (O&M)

Date of Decision : 11.11.2025

Budh Singh

... Petitioner(s)

Versus

Amrit Lal @ Amrit Pal Singh

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Atul Bhatia, Advocate (Legal Aid Counsel),
for the petitioner.

Mr. Vinay Bajaj, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the impugned order dated 30.10.2018 whereby the application filed by the plaintiff-respondent under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC) for amendment of the plaint has been allowed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for permanent injunction for restraining the defendant-petitioner from interfering in the peaceful, lawful and exclusive possession of the plaintiff-respondent over one shop measuring 16 sq. yds. fully described in the plaint. It was averred in the plaint that the defendant-petitioner was owner in possession of the suit property and that vide the agreement to mortgage dated 15.06.1999 the defendant-petitioner mortgaged the shop in dispute for a total sum of ₹29,000/- and the plaintiff-respondent

was put in actual physical possession of the said shop. It was further averred that the defendant-petitioner had agreed to register the regular mortgage deed on 14.06.2001 after receiving the remaining mortgage amount. An injunction was sought against the defendant-petitioner from forcibly dispossessing the plaintiff-respondent. Written statement was filed by the defendant-petitioner wherein the agreement to mortgage dated 15.06.1999 was admitted, however, it was stated that the same was not registered. It was further stated that the limitation of the agreement expired on 14.06.2002 and that the plaintiff-respondent had promised the defendant-petitioner that he would vacate the shop in dispute on demand of the defendant-petitioner. The contents of the remaining paragraphs were simpliciter denied. Vide order dated 27.05.2016 status quo order passed by the Trial Court was made absolute. It was the case set up by the plaintiff-respondent that on 31.05.2016 he was forcibly dispossessed from the suit property and thereafter he was embroiled in multiple litigations and it was only on 17.07.2018 that he had filed the present application for amendment of the plaint incorporating the plea of possession as well as for incorporating all the facts qua the dispossession and the action taken by the plaintiff-respondent as also the litigation that ensued post dispossession. Reply was filed to the said application and vide the impugned order dated 30.10.2018 the amendment application was allowed. Hence, the present revision petition by the defendant-petitioner.

3. Learned counsel for the defendant-petitioner would contend that the trial had commenced and even the application for amendment had been filed on 17.07.2018 though it was the case set up by the plaintiff-respondent himself that he was dispossessed on 31.05.2016. Learned counsel would further contend that the suit was at the stage of the plaintiff-respondent's

evidence and one of the witnesses, namely, Amrit Lal (PW1) was also cross-examined, therefore, the application ought not to have been allowed. It is further the contention of the learned counsel that the amendment would change the nature of the suit and that it has been filed to delay the proceedings.

4. *Per contra* the learned counsel for the plaintiff-respondent would contend that in the written statement filed by the defendant-petitioner there was no denial of the mortgage deed though unregistered. Infact, the possession of the plaintiff-respondent was also admitted. In para 3 of the legal objections of the written statement it is the case set up by the defendant-petitioner himself that the plaintiff-respondent had requested to hand over the possession of the suit property, however, he failed to do so. Learned counsel would further contend that during the pendency of the suit the plaintiff-respondent was dispossessed from the suit property and thereafter was embroiled in multiple criminal cases by the defendant-petitioner for which he was running helter-skelter for bail.

5. I have heard the learned counsel for the parties.

6. In the present case the suit initially filed by the plaintiff-respondent was for permanent injunction. It was admitted in para 2 of the written statement that on 15.06.1999 an agreement to mortgage was executed by the defendant-petitioner for ₹29,000/-, however, it was not registered. It was further averred that the defendant-petitioner never asked the plaintiff-respondent to register the mortgage due to good faith. However, the stand taken was that the limitation had expired. A perusal of para 3 of the legal objections of the written statement further reveals that even the possession of the plaintiff-respondent was not denied, rather it was stated that the plaintiff-respondent demanded ₹1,00,000/- from the defendant-petitioner to leave the

possession of the shop and he paid the said amount to the plaintiff-respondent and he thereafter handed over the possession of the shop in July 2015. During the pendency of the trial, an application was filed under Order 6 Rule 17 of CPC for permission to amend the plaint on the ground that the plaintiff-respondent had been dispossessed from the suit property. Details of the manner in which the plaintiff-respondent was dispossessed have also been stated and sought to be added as para 7(a) to 7(n). In para 7(d) it was stated that the defendant-petitioner had come to the shop armed with a .12 bore gun and threatened the wife of the plaintiff-respondent and her family members to leave the shop. Thereafter, details of the complaints having been given by the plaintiff-respondent have also been stated.

7. Hon'ble Supreme Court in the case of **Life Insurance Corporation of India vs. Sanjeev Builders Private Limited & Anr. [2023 (1) RCR (Civil) 851]** has held as under :

“ 70. Our final conclusions may be summed up thus: (i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.

(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “ shall” , in the latter part of Order VI Rule 17 of the CPC.

(iii) The prayer for amendment is to be allowed

(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and

(ii) to avoid multiplicity of proceedings, provided (a) the amendment does not result in injustice to the other side, (b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and (c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

(iv) A prayer for amendment is generally required to be allowed unless

(i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,

(ii) the amendment changes the nature of the suit,

(iii) the prayer for amendment is malafide, or

(iv) by the amendment, the other side loses a valid defence.

(v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

(vi) Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

(vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

(viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

(ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed

and the issue of limitation framed separately for decision.

(x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

(xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi & Ors., 2022 SCC OnLine Del 1897)."

8. The present amendment would be necessary for avoiding multiplicity of proceedings inasmuch as if the plaintiff-respondent alleges that he has been dispossessed during the pendency of the suit despite a stay order, the amendment ought to be allowed to avoid multiplicity of proceedings. The incidents which have been stated in the amendment application are all post the filing of the suit. The amendment would also be necessary for determining the real question and controversy and no prejudice is likely to be caused to the defendant-petitioner. Even if the version of the defendant-petitioner is to be

believed and to be taken at its face-value, the defendant-petitioner has averred that he is in possession of the suit property. That being so, the amendment is not likely to cause any prejudice to the defendant-petitioner.

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

10. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

11.11.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable