**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****263****CR-1442-2018 (O&M)****Date of decision: 27.11.2025****Om Parkash alias Chhotu****...Petitioner(s)****Vs.****Banarsi Devi****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sudhir Aggarwal, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of Constitution of India has been filed by the defendant seeking setting aside of the order dated 15.02.2018 (Annexure P-6) passed by learned Civil Judge (Junior Division), Gurugram; whereby applications filed by the plaintiff/respondent for: (a) amendment of plaint; and (b) for impleading necessary persons, has been allowed.

2. It is *inter alia* submitted by learned counsel for the petitioner that in passing the impugned order, the learned Trial Court failed to appreciate that in seeking the proposed amendment, the respondent/plaintiff was seeking to change the entire nature of the suit. It is submitted that originally the respondent had prayed for decree for mandatory injunction in respect of part of the suit property as described in para 2(B) of the plaint. Accordingly, prayer of the plaintiff in the plaint was for "*for the decree of mandatory injunction, by directing the*



defendant to hand over the possession of suit property, which is fully detailed and described in para no. 2 (B) of the plaint by evicting the defendant kindly be passed in favour of the plaintiff and against the defendant with cost of the suit.” However, now the plaintiff was seeking a declaration qua the suit property.

3. Furthermore, vide the second application (Annexure P-3), plaintiff was now seeking to implead 10 more respondents. Learned counsel contends that first and foremost, the learned Court below has erred in deciding 2 applications by way of one impugned order. Moreover, Court below has failed to appreciate that by way of amendment, the respondent wants to change the nature of the suit i.e. suit for mandatory injunction against the petitioner to suit for declaration seeking ownership of the premises and partition from other co-owners of the joint Khewat.

4. It is submitted that the learned Court below has not appreciated the fact that if a person wants a relief against some other persons who were not a party in the original suit and that relief was also not sought in the original suit, the party should have filed an independent suit seeking relief against the persons who were not party in the original suit. There was no occasion for a person to add an independent relief against some other persons in the original suit. It is not a question of changing the title of the suit with some additional relief rather it amounts to adding two suits against different persons in one suit which in the eyes of law is not permitted.



5. It is accordingly prayed that the Revision Petition be allowed; and the impugned order dated 15.02.2018 (Annexure P-6) be set aside.

6. No other argument is raised on behalf of the petitioner. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced by the learned counsel for the petitioner.

7. The instant Civil Suit was filed by the respondent on 30.05.2016 (Annexure P-1). The present application for amendment of the plaint (Annexure P-2); and the application for impleadment of proposed respondents (Annexure P-3); were moved by the respondent even before the petitioner/defendant had filed the written statement in the suit. The provision of Order VI Rule 17 CPC is very clear. The Hon'ble Supreme Court has time and again held that provision of Order VI Rule 17 CPC has to be construed liberally; that necessary amendments should be permitted in order to effect substantial justice between the parties. In the present case, as petitioner had not even filed written statement to the Civil Suit, therefore, no prejudice will be caused in case the plaint is amended. Admittedly suit is still at initial stage. Petitioner has been unable to demonstrate as to what prejudice will be caused to him by permitting the amendment.

8. Hon'ble Supreme Court in case of ***"Revajeetu Builders & Developers Vs. Narayanaswamy & Sons & Others"*** Civil Appeal ***No.6921 of 2009***, has laid down the following guidelines:



"E. Civil Procedure Code, Order 6, Rule 17-Amendment of pleadings sought by a party - Following principles ought to be taken into consideration while allowing or rejecting the application for amendment

(1) Whether the amendment sought imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? And

(6) As a general rule, the Court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

(7) These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 Rule 17 - These are only illustrative and not exhaustive.

(8) The decision on an application made under Order 6 Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner.

(9) While deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments."



9. Even in the ***“Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another, 2022 Live Law (SC) 729***, the Hon’ble Supreme Court has held that a liberal approach ought to be adopted in such matters; and laid down the following guidelines for permitting amendment of pleadings: -

"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 consideration, 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, courts 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



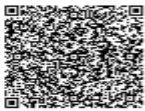
be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

*(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)".*
(Emphasis added)

10. Admittedly, petitioner has been compensated with costs of Rs.1,000/-. Furthermore, plaintiff is *dominus litis* of his suit and is a best judge to implead the parties to his lis. By way of the application for impleadment, respondent has sought to implead all co-sharers in the partition suit. As such, the said persons are necessary parties to the present dispute.

11. The relevant extract of the impugned order is as follows:-

“After hearing both sides, this court is of the view that even if relief of declaration is sought to be added by way of this amendment application, no prejudice would be caused



to the defendant because opportunity shall be provided to him to file written statement. Inconvenience caused to defendant by delay due to act and conduct of the plaintiff can be compensated in terms of money. Therefore, even of the plaintiff wants to change title of the suit along with some additional relief, the amendment should not be dis-allowed.”

12. In view of the above, I find no ground is made out to interfere in the impugned order dated 15.02.2018 (Annexure P-6). The present Civil Revision Petition is accordingly **dismissed**.

13. Pending application(s), if any, also stand(s) disposed of.

27.11.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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