

2025:PHHC:166560



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(256)

CR-2710-2016 (O&M)
Dated of decision:- 01.12.2025

Manoj Kumar

....Petitioner

Versus

Deemahat Singh @ Deepal and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sumit Gupta, Advocate
for the petitioner.

Mr. Saurabh Bajaj, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 17.02.2016 (Annexure P-7) passed by the Civil Judge (Junior Division), Karnal, whereby the applications filed by the petitioner-plaintiff under Order 6 Rule 17 CPC for amendment of plaint has been dismissed.
2. Learned counsel for the petitioner has submitted that the petitioner had originally filed a suit for mandatory injunction with consequential relief of permanent injunction with respect to the agreement to

sell dated 31.05.2011. It is submitted that the last date for execution of the sale deed as per the said agreement to sell was 30.11.2012 and the petitioner had moved the applications for amendment within the period of limitation and by virtue of the amendment the petitioner wanted to seek relief of specific performance. It is stated that in view of the same, the amendment should have been allowed.

3. Learned counsel for the respondent, on the other hand, has submitted that the suit was filed on 08.12.2012 and that at that stage only, the plaintiff should have filed a suit for specific performance and that the subsequent amendment applications had been filed in the year 2015 after the period of limitation to seek specific performance had elapsed.

4. This Court in **CR-5855-2022** titled as “**M/s K.L.V. Builders and Developers and another Vs. Vinay Sethi and others**”, **along with other connected matters, decided on 14.08.2024**, has observed as under:-

“44..... In similar circumstances, the Co-ordinate Bench of this Court in the case of Saroj (supra) had allowed the application filed by the plaintiffs therein under Order 6 Rule 17 CPC for amendment of the plaint. Even in the said case, a suit for mandatory injunction was filed and thereafter, an application under Order 6 Rule 17 was filed for converting the same from mandatory injunction to specific performance and the said application was dismissed by the trial Court by observing that the same was time barred as it had been filed after a period of three years. A Co-ordinate Bench of this Court had observed in the said case that the relief of mandatory injunction in strict sense is to get the enforcement of the agreement to sell under the colour of mandatory injunction and the real intention is to seek specific performance and the only issue is regarding the Court fee and once the said Court fee has been affixed, then the impediment regarding the same is also cleared and thus, the revision petition was allowed. The relevant portion of the said

judgment is reproduced hereunder:-

“6. Thereafter, petitioner filed an application under Order 6 Rule 17 CPC for change of title of the suit from mandatory injunction to specific performance. The trial Court vide the impugned order dismissed the application on the ground that the cause of action for seeking specific performance has become time barred as the application has been filed beyond the period of three years”.

xxx xxx xxx

*11. Mandatory injunction seeking direction for execution of a sale deed is act of euphemism. In strict sense it is not a relief of mandatory injunction, rather aim is to get the enforcement of agreement to sell under the colour of mandatory injunction. Real intention is to seek specific performance for which only issue of 6 of 8 court fee is to be seen. The plaintiff has already affixed the ad valorem court fee, therefore, the impediment in that context has already been cleared and no limitation is attracted as the petitioner does not wish to change the body of the plaint and cause of action. **In such a scenario, the limitation would be a mixed question of law and facts and can only be considered during course of trial**”.*

5. During the course of arguments, a consensus has been arrived at between learned counsel for the petitioner as well as learned counsel for the respondent and in view of the same, the present revision petition is disposed of in the following terms:-

- (i) The impugned order dated 17.02.2016 (Annexure P-7) is set aside and the applications filed by the petitioner for amendment of the plaint are allowed. The defendant would be given an opportunity to file amended written statement.
- (ii) The issue of limitation would be kept open and would be decided at the stage of final adjudication. The date for considering the period of

limitation for the purpose of relief of specific performance would be the date on which the applications for amendment were filed and not from the date on which the suit was instituted.

- (iii)
- It would be relevant to note that this Court has not opined on the merits of the plea of limitation and the said aspect would be considered at the stage of final adjudication after hearing both the parties concerned and after taking into consideration the agreement, documents and evidence, as well as, the dates on which the applications for amendment were filed and other relevant aspects.

December 01, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No