



240

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

CR-3384-2016 (O&M)

Date of Decision : 27.10.2025

Rekha Jhanji Brar (deceased) through LRs ... Petitioner(s)

Versus

Sohan Lal Jhanji (deceased) through LRs & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sumeet Mahajan, Senior Advocate with
Mr. Shrey Sachdeva, Advocate and
Ms. Radhika, Advocate for the petitioner.

Mr. Pawan Bansal, Advocate for respondent Nos.1 and 2.

ALKA SARIN, J. (Oral)

1. The present revision petition has been pending since 2016 and since then every attempt has been made by the plaintiff-respondent Nos.1 and 2 to delay the matter on one pretext or the other. Proceedings before the Trial Court were stayed by this Court vide order dated 29.05.2018 and since then the suit is at a standstill. As far back as 2020, the parties were directed to appear in Court in order to explore the possibility of a compromise since the dispute is between family members. However, there was no outcome and the matter is being adjourned on one ground or the other on the request of the learned counsel for the plaintiff-respondent Nos.1 and 2. On 19.12.2024, after hearing arguments at length, a detailed order was passed specifically posing a query to the learned counsel for the plaintiff-respondent Nos.1 and 2 as to how the amended plaint was filed on 16.12.2013 on behalf of Shri Sohan Lal Jhanji when he is stated to have died on 19.05.2013 to which the learned counsel for

the plaintiff-respondent Nos.1 and 2 had responded that the amended plaint was signed earlier on 22.05.2010 and was as such filed. However, it was noted that the suit itself was dismissed on 03.05.2010 and thus there was no occasion for the amended plaint to be prepared on 22.05.2010. Learned counsel had sought time to get his instructions. The case was adjourned to 18.02.2025. On 18.02.2025 a written request for an adjournment was circulated on behalf of the learned counsel for the plaintiff-respondent Nos.1 and 2 on the ground that his wife was admitted in hospital and the matter was adjourned to 22.05.2025. On 22.05.2025 none appeared on behalf of the plaintiff-respondent Nos.1 and 2 and it was made clear that in case none appears on behalf of the plaintiff-respondent Nos.1 and 2 on the next date of hearing, the matter would be heard in their absence. On 10.07.2025 yet again a request for an adjournment was made on behalf of the learned counsel for the plaintiff-respondent Nos.1 and 2 on the ground that he was out of the country and in the interest of justice the case was adjourned to 28.08.2025 subject to payment of ₹10,000/- as costs. On 28.08.2025 written submissions were filed by the respondent – Ansh Jhanji – and it was stated that the counsel for the plaintiff-respondent Nos.1 and 2 was still abroad and yet again an adjournment was requested. The matter was once again adjourned, however, subject to payment of ₹30,000/- as costs and it was made clear that no further adjournment would be granted to either of the parties on any account. Subsequently, CM-20947-CII-2025 has been filed for recalling of the order dated 28.08.2025 wherein the tone and tenor of the language used is unacceptable and amounts to contempt. A perusal of the application reveals that it is nothing but an attempt to browbeat the Court.

2. Today the learned counsel for the plaintiff-respondent Nos.1 and 2 states that he may be permitted to withdraw CM-20947-CII-2025 on the

condition that the costs may be waived. On the observation of the Court that the plaintiff-respondent Nos.1 and 2 could not dictate the terms of an order to be passed by the Court and that they would be permitted to withdraw the application, however, costs would not be waived, the learned counsel for the plaintiff-respondent Nos.1 and 2 states that in that case he would withdraw his *vakalatnama*. The above seems to be nothing but an oblique threat to the Court that in case the order imposing costs is not recalled the learned counsel would withdraw his *vakalatnama*. As observed earlier, repeated attempts are being made to seek adjournments on one ground or the other.

3. This Court, dehors the conduct of the plaintiff-respondent Nos.1 and 2 and their counsel, in the interest of justice and keeping in view the fact that the present revision petition has been pending since 2016 and the plaintiff-respondent Nos.1 and 2 are just not ready to argue the matter on merits, deems it as a step towards justice and permits counsel for the plaintiff-respondent Nos.1 and 2 to withdraw CM-20947-CII-2025 and also waives the costs of ₹30,000/- on the condition that the case is argued today.

4. The present revision petition has been filed by defendant No.1-petitioner challenging the order dated 13.01.2016 whereby the application filed by the defendant No.1-petitioner for striking down the plaint dated 22.05.2010, particularly sub-para no.7 of the plaint, has been dismissed.

5. The present case has a chequered history. In 2008 a civil suit was filed by the plaintiff-respondent Nos.1 and 2, namely, Sh. Sohan Lal Jhanji, who was about 90 years of age at that time, and Sh. Prithvi Lal Jhanji, who was 81 years of age. The suit was for declaration that the properties described in the plaint were all joint Hindu family properties which were acquired by the father of defendant No.1-petitioner, namely, Sh. Mohan Lal Jhanji (since

deceased) as the *Karta* of the joint Hindu family being the eldest male coparcener consisting of a joint family with his brothers. In the plaint (Annexure P-1) certain scandalous, frivolous and vexatious allegations were made against deceased Sh. Mohan Lal Jhanji. Hence, an application (Annexure P-2) was filed by the defendants under Order VI Rule 16 CPC for striking off certain words, lines and paragraphs of the plaint. Reply (Annexure P-3) was filed to the said application. Vide order dated 21.10.2009 (Annexure P-4) the application was allowed, relevant portion of which reads as under :

“ 11 After hearing the rival contentions, this court is of the considered view that the following words/ lines/ paras complained of do not pass the test laid down in *P.D. Shomsadani's case (supra)* and are covered either clause (a), (b) or (c) of Rule 16 of Order 6 CPC.

Para 5:

Use of word "traitor against the deceased elder brother and " meanness" against others is unnecessary and scandalous. Therefore, the whole line starting from words " Pertinent to say.....to... showing their utter meanness instead" is unnecessary and is liable to be struck out.

Paras 7 & 8

The contents of para no 7 and 8 do not satisfy the test laid down in P.D.Shomsadani's case (supra). The whole of the paras are unnecessary and liable to be struck out.

Para 9

Use of words " ruled the roots" , " dominance" , " grabbing mentality" . " solo command and control" , " whims and

wishes” regarding deceased younger sister-in-law is unnecessary and scandalous. Therefore, the lines starting from the words “ As Smt. Shanta Jhanji was eldermost lady..... to.... as per dictums of the first lady governing the domestic policies” are unnecessary and liable to be struck out.

Para 12:

Use of words “ over smart” , “ self centered” and “ opportunist with reference to the younger sister-in-law is unnecessary and scandalous. Therefore, the words “ of being over smart, self-centered & opportunist” are liable to be struck out.

Para 13.

Use of words “ identity crisis” regarding defendant no 1 is unnecessary and scandalous. Therefore, the line starting from the words “ It is pertinent to say that def no 1..... to..... renounced life throughout” is unnecessary and liable to be struck out.

Para 15:

Use of words “ sycophants” , “ flickering mind” , “ crying shame” , “ ingrained identity crisis” is unnecessary and scandalous. Therefore, the words “ and he often boasted about producing a creed of his sycophants like his associates i.e trained lawyers & certain supported relations” , the line starting from the words “ But, as certain sycophants..... to break the joint family” , words

“ what a crying shame it would be that” , the words “ of having ingrained identity crisis” are unnecessary and liable to be struck out.”

6. Aggrieved by the same, the plaintiff-respondent Nos.1 and 2 preferred CR-7135-2009 in this Court which revision petition was decided on 18.03.2010. The operative portion of the said order dated 18.03.2010 reads as under :

“ For the reasons recorded herein above, the instant revision petition is dismissed except to the extent that pleading of the plaintiffs in paragraph 7 of the plaint to the effect that Mohan Lal Jhanji had been spending his income on the family of his in-laws and therefore had no personal income to acquire the suit properties, shall be retained.”

7. The plaintiff-respondent Nos.1 and 2 failed to file their amended plaint and vide order dated 03.05.2010 the suit of the plaintiff-respondent Nos.1 and 2 was dismissed for not filing the amended plaint despite having availed 08 effective opportunities spreading over a period of six months. Aggrieved by the same CR-3379-2010 was filed which revision petition was disposed off vide order dated 24.10.2013 restoring the suit to its original number. After the case was restored, the parties appeared before the Trial Court on 16.12.2013. Though the *zimni* orders do not reveal as to when the amended plaint was filed, however, it is taken to having been filed on 16.12.2013 i.e. the first date the parties appeared before the Trial Court after restoration of the suit to its original number. The amended plaint which was filed on 16.12.2013 bore the date 22.05.2010 and was signed by both the

plaintiff-respondent Nos.1 and 2. It is apt to note that the suit itself was dismissed for non-prosecution on 03.05.2010 and the amended plaint, according to the learned counsel for the plaintiff-respondent Nos.1 and 2, dated 22.05.2010 was appended with CR-3379-2010. Admittedly, Sh. Sohan Lal Jhanji died on 19.05.2013 i.e. prior to the date of appearance of the parties before the Trial Court on 16.12.2013.

8. While filing the amended plaint, though para nos.7 and 8 had been deleted barring what had been permitted vide order 18.03.2010 (Annexure P-5) passed by this Court, a fresh sub-paragraph was added to paragraph No.7. Though in para No.8 it has been simply stated that para No.8 had been deleted vide order dated 21.10.2009 however in para No.7 after referring to the order of this Court and to the extent that the plaintiff-respondent Nos.1 and 2 were allowed to plead, two more sub-paragraphs were added. An application was filed by the defendant No.1-petitioner for striking down the plaint dated 22.05.2010 on two accounts - one on the ground that the sub-paras of paragraph No.7 were required to be deleted and secondly, that the plaint had been signed by a dead person. Reply was filed to the said application. Vide order 13.01.2016 the application was dismissed holding that the amendments introduced in the plaint were with permission and that on the date the amended plaint was signed i.e. 22.05.2010 Sh. Sohan Lal Jhanji was alive. Aggrieved by the same, the revision petition has been filed.

9. Learned senior counsel appearing on behalf of the defendant No.1-petitioner would contend that vide order dated 21.10.2009 the Trial Court had struck off para Nos.7 and 8 in entirety. This Court in CR-7135-2009 decided on 18.03.2010 had dismissed the revision petition. However, the pleadings of the plaintiffs in para No.7 of the plaint to the effect and extent

that Sh. Mohan Lal Jhanji had been spending his income on the family of his in-laws and therefore had no personal income to acquire the suit properties, were permitted to be retained. It is the contention that no permission was granted to add any further sub-paragraphs to para No.7. It is further the contention that the suit had been dismissed vide order dated 03.05.2010. The same was restored to its original number vide order dated 24.10.2013 (Annexure P-6) passed in CR-3379-2010. The amended plaint was filed on 16.12.2013 i.e. the first date of appearance as directed vide order dated 24.10.2013. On the said date Sh. Sohan Lal Jhanji had already died having expired on 19.05.2013 and, therefore, any plaint purporting to have been filed at his behest could not have been considered.

10. *Per contra*, learned counsel for the plaintiff-respondent Nos.1 and 2 would contend that at the time of filing of CR-3379-2010 the amended plaint was appended with the said revision petition and therefore it bears the date i.e. 22.05.2010. It is further the contention that on 22.05.2010 Sh. Sohan Lal Jhanji was alive and therefore, once the suit was restored, the plaint was filed. Learned counsel for the plaintiff-respondent Nos.1 and 2 would further contend that para No.7 is only as per the directions of this Court passed in CR-7135-2009 vide order dated 18.03.2010. This Court has also taken note of the written submissions which have been filed by learned counsel for the plaintiff-respondent Nos.1 and 2. It is submitted in the written submissions that when the plaint was filed it was validly received by the Civil Judge without any objections raised by the defendants' counsel. It has further been stated that the objection is misconceived as to how the plaint could be signed on 22.05.2010 when the suit was dismissed on 03.05.2010. It has further been stated in the written submissions that the amended plaint has been filed in consonance with

the provisions of Order IV Rule 7 CPC. Further reference has been made to a Will which was executed by Sh. Mohan Lal Jhanji in favour of the defendants. The arguments as raised by the learned counsel for the plaintiff-respondent Nos.1 and 2 have been repeated over and over again in the written arguments and hence there is no requirement to further advert to the same. Further, the issue of the Will has also been repeatedly raised.

11. I have heard the learned counsel for the parties at length and also gone through the written arguments submitted by the learned counsel for the plaintiff-respondent Nos.1 and 2.

12. Dehors the conduct of respondent Nos.1 and 2 and without commenting on the same, as noticed earlier, this Court took a decision to decide the case on merits as even though attempts were being made to get the matter adjourned. It is unfortunate that such tactics are being resorted to only in an endeavour to delay proceedings or possibly to take a chance before another bench.

13. Reverting to the facts of the present case, the suit was filed by the plaintiffs – Shri Sohan Lal Jhanji and Shri Prithvi Raj Jhanji – for declaration that the properties described in detail in the plaint (Annexure P-1) are all joint Hindu family properties which have been acquired by the father of defendant No.1, Shri Mohal Lal Jhanji (since deceased) as the *karta* of a joint Hindu family being the eldest male coparcener. In the said plaint, certain scandalous and unnecessary comments had been made regarding Shri Mohal Lal Jhanji. The defendant No.1-petitioner herein, who is now represented through her legal representatives, took exception to the uncalled for and scandalous comments made about her father and filed an application (Annexure P-2) for striking off the said

words/lines/paragraphs. Vide order dated 21.10.2009 (Annexure P-4), *inter alia* paragraphs 7 and 8 were deleted completely being unnecessary. Aggrieved by the same, the plaintiff-respondent Nos.1 and 2 filed CR-7135-2009 which was dismissed by this Court vide order dated 18.03.2010 (Annexure P-5) except to the extent that pleadings in paragraph 7 of the plaint to the effect that Mohan Lal Jhanji had been spending his income on the family of his in-laws and therefore had no personal income to acquire the suit properties, were permitted to be retained. As noticed above, the suit itself was dismissed on 03.05.2010. Aggrieved by the same, CR-3379-2010 was preferred by the plaintiff-respondent Nos.1 and 2 which was allowed vide order dated 24.10.2013 (Annexure P-6) and the suit was restored to its original number. The amended plaint dated 22.05.2010 was filed on 16.12.2013 i.e. after the death of Shri Sohan Lal Jhanji on 19.05.2013.

14. Learned senior counsel for the defendant No.1-petitioner has made two fold submissions. Firstly, regarding the addition of certain subparagraphs to paragraph 7 in the amended plaint which was never permitted by this Court vide order dated 18.03.2010 passed in CR-7135-2009, and secondly that though the amended plaint is dated 22.05.2010, however, the suit itself was dismissed on 03.05.2010 and therefore there was no question of any amended plaint being prepared on 22.05.2010. Further, submission has been made that when the amended plaint itself was filed on 16.12.2013, Shri Sohan Lal Jhanji was no longer alive having expired on 19.05.2013. Learned senior counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **Maulvi Issa Qureshi Vs. District Judge, Deoria & Ors. [(1996) 5 SCC 731]** to contend that when a suit is filed on behalf of a dead person by a co-plaintiff, it is a fraudulent act and the said fraud is to be considered as a

fraud on the Court and a misuse of the judicial process.

15. Per contra the learned counsel for the plaintiff-respondent Nos.1 and 2 contended that the amended plaint was appended with CR-7135-2009 and it was dated 22.05.2010 at which point of time Shri Sohan Lal Jhanji was alive.

16. The argument of the learned counsel for the plaintiff-respondent Nos.1 and 2 that since the amended plaint was signed on 22.05.2010 and at that point of time Shri Sohan Lal Jhanji was alive and therefore the plaint is to be considered as having validly filed, cannot be accepted.

17. It is an admitted position that the suit itself was dismissed on 03.05.2010. Even if the amended plaint was prepared and appended with the petition being CR-7135-2009, however, at the time the same was filed before the Trial Court i.e. on 16.12.2013, the plaintiff – Shri Sohan Lal Jhanji – was not alive having expired on 19.05.2013 and therefore the amended plaint cannot be said to have been validly filed on his behalf. However, the amended plaint has been signed by the co-plaintiff – Prithvi Raj Jhanji. Viewing it from another angle, if this amended plaint was to be treated as having been totally struck off, the original plaint would remain sans the deleted portions and paragraphs 7 and 8 which fact cannot be ignored. As noticed by this Court in CR-3379-2010, even in the absence of the amended plaint, the suit could have proceeded on the basis of the original plaint. Keeping in view the fact that repeated attempts have been made to delay the proceedings, this Court, in order to mitigate the hardships of the defendant No.1-petitioner and to ensure timely conclusion of the trial, deems it appropriate to allow the amended plaint to be treated to having been filed only on behalf of plaintiff No.2 – Prithvi Raj Jhanji.

18. The second argument of the learned senior counsel for the defendant No.1-petitioner deserves to be accepted. This Court in CR-7135-2009 decided on 18.03.2010 had permitted only a specific portion of the contents of para 7 to be retained. The operative portion of the order is reproduced hereinbelow once again for the sake of clarity :

“ For the reasons recorded herein above, the instant revision petition is dismissed except to the extent that pleading of the plaintiffs in paragraph 7 of the plaint to the effect that Mohan Lal Jhanji had been spending his income on the family of his in-laws and therefore had no personal income to acquire the suit properties, shall be retained.”

19. Though in the written submissions reference has been made to Order IV Rule 7 CPC, however, there is no such provision in CPC. However, Order VI Rule 7 CPC reads as under :

“ 7. Departure - No pleading shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same” .

In the present case, paragraphs 7 and 8 stood deleted which deletions were upheld by this Court vide order dated 18.03.2010 (Annexure P-5) passed in CR-7135-2009 except for permitting the plaintiffs to retain the allegations regarding Shri Mohan Lal Jhanji having spent his income on the family of his in-laws and therefore having no personal income to acquire the suit properties.

20. A perusal of the amended plaint reveals that two new sub paras have been added to paragraph 7 which was never permitted by this Court vide

order dated 18.03.2010 (Annexure P-5). In the absence of any permission and in the absence of any fresh amendment application, no additional averments could have been made as per the provisions of Order VI Rule 7 CPC. If at all any additional grounds were to be taken or any additional facts were to be incorporated in the plaint, the same could only be done by way of a fresh amendment application being filed. However, in the garb of filing of an amended plaint in consonance with the order dated 18.03.2010 passed in CR-7135-2009, additional paragraphs/sub-paragraphs could not have been added.

21. In view of the above, the sub-paragraphs in the amended plaint starting from the words “ the plaintiffs in view of the order dated 21/10/09 & 18/3/09 to *Thus defendant No.1 is now hit by the rule of the departure of pleadings as well in curtailing the fields of contest illegally*” stand deleted.

22. Keeping in view the fact that the suit has been pending since 2008 and has unnecessarily been dragged, the Trial Court is requested to expedite the hearing of the same and to conclude the trial preferably within a period of six months from today, in accordance with law. It is made clear that no unnecessary adjournments shall be granted to either of the parties.

23. In view thereof, the present revision petition stands disposed off. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case. Pending applications, if any, also stand disposed off.

27.10.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO