



257

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

CR-548-2018 (O&M)

Date of Decision : 25.08.2025

Jagdish Pal

... Petitioner(s)

Versus

Puran Dai & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anupam Bhardwaj, Advocate for the petitioner.

Respondent Nos.1, 2, 4, 7 and 8 proceeded against *ex parte*
vide order dated 10.08.2018.

Service of respondent Nos.3, 5 and 6 dispensed with
vide order dated 14.11.2022.

Mr. Anil Chawla, Advocate for respondent No.9 and 10.

None for respondent No.11.

ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred under Article 227 of the Constitution of India challenging the impugned order dated 04.01.2018 passed by the First Appellate Court dismissing the application filed by the plaintiff-petitioner under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC) for amendment of the plaint.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for declaration to the effect that the plaintiff-petitioner is owner of the building constructed on the land measuring 40 sq. yds. comprised in Khasra No.109 min situated in the area of Kot Atma Singh O/s Ram Bagh Gate and within the Municipal Limits of Amritsar to the extent

of 1/10th share with consequential relief of possession of 1/10th share of the said building being a partner of M/s Doaba Grank and Grindings Works situated at Circular Road O/s Ram Bagh Gate near Goal Gurmat, Katra Baggian, Amritsar as well as for permanent injunction and rendition of accounts. Prayer clause of the plaint reads as under :

“12. In the light of the above said paras, it is prayed that a decree for declaration that the plaintiff is the owner of the building constructed on the land measuring 40 sq. yards on khasra no.109 min situated in the area of Kot Atma Singh O/s Ram Bagh gate and within the municipal limits of Amritsar, to the extent of 1/10th share with consequential relief of joint possession of 1/10th share of the said building being a partnership of M/s Doaba Crank and Grinding Works, situated at Circular Road, O/s Ram Bagh Gate near Goal Gummat Kot Baggian, Amritsar and for permanent injunction restraining the defendants from making alienation of the partnership property and also decree for rendition of accounts of the partnership business from 5.5.75 to upto date, may kindly be passed in favour of the plaintiff and against the defendants with costs. Any other relief to which the plaintiff is found entitled to under law and equity be also granted to him.”

3. The suit was partially decreed by the Trial Court vide the judgment and decree dated 30.09.2013 to the effect that the plaintiff-petitioner was entitled to rendition of accounts from 05.05.1975 till the passing of the

decree. A preliminary decree was passed. The counter claim for rendition of accounts and mandatory injunction stood dismissed. Aggrieved by the judgment and decree of the Trial Court dated 30.09.2013, an appeal was preferred by the plaintiff-petitioner before the First Appellate Court and during the pendency of the said appeal an application was filed under Order 6 Rule 17 read with Order 1 Rule 10 CPC for amendment of the plaint stating therein that Puran Dai (defendant-respondent No.1 herein) who was stated to be partner in the firm to the extent of 20% share had sold half share of the constructed area measuring 40 sq. yds. out of a total of 81 sq. yds. bearing Khasra No.109 min situated at Kot Atma Singh near Ram Bagh, Amritsar vide sale deed dated 01.02.1996 in favour of Rajni Mahajan and half share in favour of Nisha Mahajan vide sale deed dated 01.02.1996 and that during the pendency of the appeal half share out of the remaining 41.6 sq. yds. was sold to Vivek Mahajan and to Vishal Mahajan vide two sale deeds dated 17.07.2014. It was further stated in the application that Puran Dai had no right to sell the property, therefore, permission was sought to implead Vishal Mahajan and Vivek Mahajan as parties and for declaration that the two sale deeds dated 17.07.2014 were illegal, null and void. Certain other amendments were sought in the plaint. Vide the impugned order dated 04.01.2018 the application was dismissed. Hence, the present revision petition.

4. Learned counsel for the plaintiff-petitioner would contend that out of 81 sq. yds., Puran Dai had sold more than her share in the property and since the sales have been entered into post the passing of the judgment and decree by the Trial Court, therefore, necessity for amending the plaint.

5. *Per contra* learned counsel for respondent Nos.9 and 10 has pointed out that in the original plaint the suit was only qua 40 sq. yds of land

and barring a mention in paragraph 4 of the total land measuring 81 sq. yds., neither the headnote nor the prayer in the plaint talked about 81 sq. yds. Infact, the prayer is only qua 40 sq. yds of land comprised in Khasra No.109, hence, the amendment itself is beyond the pleadings and beyond the prayer made in the plaint.

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

7. In the present case, the prayer in the plaint as been reproduced above pertained to only 40 sq. yds. of land comprised in Khasra No.109 min. In the amendment application the plaintiff-petitioner is now talking of Puran Dai having sold the remaining 41.6 sq. yds. which is not even the case in the original plaint. The heading of the plaint and the prayer clause only speak of 40 sq. yds. However, by way of the present amendment a totally new case has been sought to be set up that the suit itself was qua 81 sq. yds. There is no amendment of the plaint as far as the heading or the prayer clause is concerned which has been made in the application for amendment.

8. In view of the above, no fault can be found with the impugned order dated 04.01.2018 passed by the First Appellate Court. The present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

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

25.08.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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