

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

145

CR-626-2024 (O&M)
Date of decision : 20.11.2025

Harcharan Singh

..... Petitioner

versus

Paramjit Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Om Pal Sharma, Advocate and
Mr. Anmol Sharma Vashisht, Advocate
for the petitioner.

Mr. Onkar Rai, Advocate
for respondents No.1 and 2.

None for respondent No.3.

PANKAJ JAIN, J. (Oral)

1. Present revision petition is directed against order dated 04.01.2024, whereby application filed under Order VI Rule 17 Code of Civil Procedure, 1908 by the plaintiff seeking amendment of the plaint stands dismissed.

2. Initially, plaintiff filed suit seeking declaration to the effect that he is owner in possession of plot measuring 208 sq. yards as detailed out in the headnote of the plaint. Further prayer was for grant of decree of permanent injunction restraining defendant No.1 from alienating the suit property or from interfering in peaceful possession of the plaintiff.

3. Issues were framed and the matter was fixed for plaintiff's evidence when the present application under Order VI Rule 17 CPC was



moved by the plaintiff seeking amendment of the plaint. The proposed amendments read as under:-

“(i) That at the end the relief of declaration and before the start of the relief of permanent injunction, in the head note and prayer clause, the plaintiff be allowed to add the relief of possession as follows:-

“Suit for possession of plot measuring 208 square yards, as shown red in the site plan attached with the plaint and bounded as under: -

East: Manohar Singh, length 34'

West: Road 30' wide, length 34'

North: Street 20' wide, length 55'

South: Manohar Singh, length 55'

comprised in Khasra no.24//19, 20, 21, 22, Khata no.73/82, 74/83, 75/84, 76/85, vide jamabandi for the year 2007-08, situated at village Partap Singh wala, Hadbast no.151, near Bala ji Nagari, Tehsil and District Ludhiana”

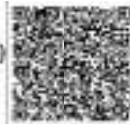
(ii) That the plaintiff wants to add the following para 6-A in the plaint after para no.6:-

“6-A. That in the last week of November, 2023 the defendants no.1 and 2 by taking the advantage absence of the plaintiff and since the plot in question is lying vacant, they illegally forcibly took the possession of the suit property, which was in possession of the plaintiff as owner is fully detailed in the plaint. The plaintiff immediately requested the defendants no.1 and 2 to restore the possession of the suit property to the plaintiff but the defendants no.1 and 2 flatly refused.”

(iii) That the plaintiff wants to add the following lines at the end of para no.8 of the plaint:-

“The cause of action also arose when the defendants no.1 and 2 took the possession of the suit property in possession of the plaintiff illegally and forcibly and when the plaintiff requested the defendants no.1 and 2 to restore the possession and when the defendants no.1 and 2 refused flatly.”

(iv) That the plaintiff wants to add the following lines at the end of para no.10 of the plaint so as to pay the court for



restoration of possession by way of amended plaint:-

"And the value of the suit for the purposes of court fee and jurisdiction for possession is Rs.6,45,000/- on which a fixed court fee of Rs. 18,870/- paid on the amended plaint."

4. The application was opposed by the defendants-respondents alleging that the plaintiff moved an application before the authorities. In the said applications, stand taken is contrary to the pleadings to be incorporated by way of proposed amendment. In the proposed amendment, it has been pleaded that the defendants came in possession in the last week of November 2023, whereas in the application filed to the authorities way back in the year 2017 and 2020, plaintiff sought back possession from the defendants. In both the complaints, he suffered a statement that having filed suit, he does not want to peruse those complaints.

5. Learned Trial Court dismissed the application referring to the stand of the plaintiff.

6. Learned counsel for the petitioner has assailed the impugned order to submit that instead of testing the proposed amendment on the touchstone of Order VI Rule 17 CPC, Trial Court dealt with the merits of the proposed amendment and erred in law in rejecting the application filed by the plaintiff.

7. *Per contra*, counsel for the respondent submits that the contradictory stand taken by the plaintiff has been rightly appreciated by the Trial Court. The proposed amendment being not *bonafide* has been rejected. He submits that the amendment has been sought after the Court has applied its mind and the issues have been framed. Thus, the



same would be barred by proviso appended to Order VI Rule 17 CPC. In order to hammerforth his contention, he relies upon ***Vidyabai and others vs. Padmlatha and another (2009) 2 SCC 409, Basavaraj vs. Indira and others (2024) 3 SCC 705, Mashyak Griuhnirman Sahakari Sanstha Maryadit vs. Usman Habib Dhuka and others (2013) 9 SCC 485, Bikramjit Singh vs. Varun Kumar and another 2025 PHHC 136870, Sikander Kaur Pannu vs. Pardeep Balu and others (2020) 1 RCR (Civil) 794.***

8. I have heard counsel for the parties and have carefully gone through the records of the case.

9. In order to appreciate the rival contentions raised by counsel for the parties, it is apt to peruse the provision as contained under VI Rule 17 CPC, which reads as under:-

“17. Amendment of pleadings.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

10. Law with respect to amendment in the pleadings has been elaborately laid down by Supreme Court in the case of ***Life Insurance Corporation of India V. Sanjeev Builders Private Limited and another, Civil Appeal No.5909 of 2022 dated 01.09.2022*** and the proposition was culled out observing as under :-

“70.....(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 mala fide, 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 pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

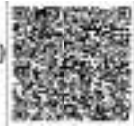
(vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

(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).”

11. Applying the aforesaid parameters to the present case, this Court finds that the test on which the proposed amendment needs to be tested is not the merits of the pleadings raised in the proposed amendment, rather the test is whether the proposed amendment is necessary for the proper adjudication of the matter in hand or not.

12. Plaintiff filed suit seeking declaration to the effect that he is owner in possession of the suit land. Later on, while seeking amendment in the plaint, he pleaded that he has been dispossessed by the defendants in November 2023 and proposes to amend his suit for relief of possession.

13. In the considered opinion of this Court in order to avoid the multiplicity of the litigation, the proposed amendment cannot be said to be irrelevant to the real controversy between the parties. So far as the plea raised by the defendants claiming that the stand of the plaintiff in the proposed amendment is contradictory to the documents on record is concerned, the same is to be dealt with at the stage of arguments. It should not have been the parameter to non-suit the plaintiff at this stage.

14. In view of above, this Court finds that the impugned order passed by the Trial Court, cannot be sustained and the same deserves to be set aside.

15. As a sequel of discussion held hereinabove, the amendment



allowed.

16. Consequently, the present revision petition is accepted.

(PANKAJ JAIN)
JUDGE

20.11.2025
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No