

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CR-595-2021 (O&M)****Date of Decision : 12.08.2025**

Davinder Kumar

....Petitioner

VERSUS

Poonam Bhardwaj and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Verma, Advocate for the petitioner.

Mr. Parvinder Singh, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 22.02.2021 whereby the application filed by the plaintiff-respondent for striking off the pleadings of the amended written statement filed on 11.02.2020 has been allowed.

2. Briefly the facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for permanent injunction for restraining the defendants from interfering in his possession and from demolishing the existing construction. Written statement was filed to the plaint. Subsequently, an application was filed for amendment of the plaint which was allowed and, accordingly, amendments were carried out in the headnote (B) of the plaint, in paras 3A, 4, 8 and the prayer clause. Amended written statement was filed by the defendant No.1-petitioner wherein the contents of para 1 of the plaint were changed. An application was filed for striking off the pleadings filed by

way of the amended written statement. Reply was filed to the said application. Vide the impugned order the application was allowed. Hence, the present revision petition.

3. Learned counsel for the defendant No.1-petitioner would contend that the cumulative effect of para 1 of the amended written statement is the same as the stand taken by the defendant No.1-petitioner in the original written statement. It is further the contention that the stand of the defendant No.1-petitioner remains the same in the original written statement and in the amended written statement.

4. *Per contra* learned counsel for the plaintiff-respondent has contended that para 1 of the amended written statement has been changed and that an amended written statement could have only been filed qua the amendments carried out in the plaint and not to the other paragraphs.

5. Heard.

6. In the present case the unamended para 1 of the written statement reads as under :

1. *Para No.1 of the plaint is correct to the extent that the defendant No.1 is father-in-law of the plaintiff and that defendant No.2 is brother of the husband of the plaintiff. The house property as fully detailed in the headnote of the plaint is situated within the abadi area of Dadial, but the said house property has not been correctly depicted by the plaintiff in her site plan. Defendant No.1 who was the owner of the site ABCD shown red in colour in the site*

plan of the defendants allowed his son Deepak Kumar to raise his house in the site ABCD shown yellow in colour when relations of Deepak Kumar with the defendant No.1 were cordial. Deepak Kumar was not allowed to keep his windows or door in his Southern wall or to interfere in any manner in the site situated towards South of his Southern wall. Deepak Kumar kept the door and windows in his Southern wall, though he was not allowed to do so. However, Deepak Kumar did not open his windows or door kept by him in his Southern wall. Defendant No.1 is the owner of the site beneath all the constructions as shown in his site plan marked with letters ABCD. Defendant No.1 has allowed his other two sons to raise house property shown green in colour in his site plan. Defendant No.1 is residing with defendant No.2 in the house property shown green in colour which is occupied by defendant No.1, defendant No.2 and Naresh Kumar the third son of defendant No.1. The gate to the house property shown green in colour has been kept at point X. The site given to Deepak Kumar is up to his Southern wall and he has no concern with the property situated towards South of the said wall.”

7. Para 1 of the amended written statement reads as under :

“1. In reply to para No.1 of the plaint, it is submitted that relationship between the parties is not denied. The house property as fully detailed in the headnote of the plaint is the ownership of defendant No.1 and the plaintiff and her husband are only licensees in the said site. Defendant No.1 allowed his son Deepak Kumar to raise his house in the disputed site with a view that Deepak Kumar and the plaintiff will look after and serve him as

well as maintain him in his old age. But Deepak Kumar and the plaintiff who had undertaken and promised to serve defendant No.1, have breached their promise, rather the plaintiff and her husband wanted to interfere in the remaining property of defendant No.1. Defendant No.1 is the owner of the site beneath all construction as shown in his site plan marked with letters ABCD. Defendant No.1 has allowed his other two sons to raise house shown green in colour in the site plan which is already attached with the previous written statement. Defendant No.1 is residing with defendant No.2 in the house property shown green in colour which is occupied by defendant No.1, defendant No.2 and Naresh Kumar, the third son of defendant No.1. The gate to the house property shown green in colour has been kept at point X shown in the site plan already attached with the previous written statement. The site in possession of Deepak Kumar, husband of the plaintiff is up to his Southern wall and he has no concern with the property situated towards South of said wall. It may be mentioned here that defendant No.1 will claim possession of the house in dispute and site underneath the construction under the provisions of Maintenance of Senior Citizens Act.”

8. The amendment to the plaint was allowed and the plaintiff-respondent was allowed to amend Para (B) of the headnote, paras 3A, 4, 8 and prayer clause. The amended written statement was to be filed to the said amendments carried out in the plaint and no new plea or change of stand could be incorporated in the written statement, which is not in consonance with the amendments carried out in the plaint. In case the defendant No.1-petitioner wished to carry out any amendment to Para 1 of the written statement the

procedure would have been to file a separate application for amendment of the stand taken in the written statement. However, in the garb of filing an amended written statement a totally different written statement cannot be permitted to be filed. In view thereof, no fault can be found with the impugned order.

9. In view of the above, there is no merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

12.08.2025
jk

(ALKA SARIN)
JUDGE

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