



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

129

CR-1065-2025 (O&M)
Date of Decision: 21.04.2025

Mahabir Prasad @ Mahavir Prasad Gupta

...Petitioner

V/s

Murari Lal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Kul Bhushan Sharma, Advocate, for the petitioner.
Mr. A.K. Yadav, Advocate, for respondents No.1 to 3.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 10.12.2024 (Annexure P-1) passed by the Court of learned Civil Judge (Sr. Divn.), Rewari, vide which the application moved by the petitioner-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short the "CPC") for the amendment of plaint was dismissed.

2. The facts, as emanating from the revision petition, are that a suit for declaration and joint possession (Annexure P-4) was filed by the petitioner-plaintiff, wherein he claimed to have become owner of the suit property along with defendant No.1 vide registered sale deed No.845 of 29.05.1989 for a sale consideration of Rs.20,000/-. During the pendency of the suit, at the stage of evidence of the plaintiff, an application (Annexure P-2) was moved by the petitioner-plaintiff under Order 6 Rule 17 CPC for amending para 1(b) of the plaint, wherein, in addition to the sale deed dated 29.05.1989, it was sought to be averred that the suit land had been purchased



vide registered sale deed dated 27.11.1989 as well for a consideration of Rs.3000/-. It was, therefore, sought to be pleaded that the suit land was jointly purchased by the petitioner-plaintiff and respondent-defendant No.1 (Murari Lal) vide two registered sale deeds dated 29.05.1989 and 27.11.1989. The application was opposed by way of reply (Annexure P-3). By way of the impugned order, the application was dismissed leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner submits that the amendment sought to be made was formal in nature and was essential for the just decision of the case. He further submits that no prejudice would be caused to the respondents in case the amendment is allowed. Learned counsel submits that the learned trial Court did not examine the matter from the correct perspective and erroneously rejected the application.

5. *Per contra*, learned counsel representing the respondents submits that there is no illegality in the impugned order, for, by way of the amendment which was sought to be made much after the commencement of the trial, the petitioner-plaintiff intended to change the nature of the suit. Learned counsel further submits that omission to mention about the second sale deed cannot, by any stretch of imagination, be taken to be a typographical error.

6. I have considered the submissions made by learned counsel for the parties.

7. Order 6 Rule 17 lays down as under:-

“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.”

8. It is not in dispute that law regarding amendment of written statements is different from the law regarding amendment of a plaint. However, the relevance of an amendment is also a factor which is to be considered. In the case of ***Revajeetu Builders & Developers Vs. Narayanaswamy & Sons & others***, 2010(1) RCR (Civil) 27, the Hon’ble Apex Court, while examining the entire law on the subject laid down the following principles qua amendment of pleadings:-

“67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.”

9. Coming to the facts of the present case, originally in the plaint, claim of the petitioner-plaintiff was that the suit land had been purchased by the petitioner-plaintiff along with defendant No.1 who is none else but the real brother of the petitioner-plaintiff by way of registered sale deed dated 29.05.1989. By way of the amendment, para No.1(b) of the plaint was sought



to be amended and it was sought to be averred that the suit land had been purchased by the petitioner-plaintiff along with respondent-defendant No.1 vide two registered sale deeds dated 29.05.1989 and 27.11.1989. In the considered opinion of this Court, the amendment sought to be made would be essential for the just decision of the case. In any case, it would be for the plaintiff to prove his own case by leading cogent evidence and merely by allowing the amendment, no benefit shall enure to the plaintiff. The amendment would not change the nature of the suit in any manner. No doubt, the application for the amendment was moved at the stage of evidence of the plaintiff, after five opportunities had been availed by the plaintiff for leading evidence and normally once the trial starts, amendment should not be permitted. However, if one examines the law on the subject as referred to in the preceding paragraphs and the facts of the present case, the only conclusion which was one arises at is that the amendment would be essential for the just decision of the case. That being so, in the considered opinion of this Court, the view taken by the learned trial Court is erroneous and cannot be sustained.

11. The argument that the omission to mention about the second sale deed cannot be taken to be a typographical error, is devoid of merit, for, the larger picture has to be seen keeping in view the principles enunciated as regards amendment of a plaint. Mere technicalities should not and would not affect the merits of an issue. The argument is, therefore, found to be devoid of merit and is accordingly rejected.

12. In view of the above, the present revision petition is allowed. The impugned order dated 10.12.2024 (Annexure P-1) passed by the Court of learned Civil Judge (Sr. Divn.), Rewari, vide which the application moved by the petitioner-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure,



CR-1065-2025

-5-

1908 (for short the “CPC”) for the amendment of plaint was dismissed is set aside and the application for amendment is allowed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 21, 2025

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No