



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

121

CR-1439-2025 (O&M)

Date of Decision: April 30, 2025

Uma Kapoor through L.Rs and another

.... Petitioners

Versus

Sharad Kapoor and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sanjeev Soni, Advocate

for the petitioner

NIDHI GUPTA, J. (ORAL)

1. The present revision petition has been filed by the plaintiff under Article 227 of the Constitution of India for setting aside the order dated 10.02.2025 whereby the application filed by the petitioner under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint, has been dismissed.
2. Learned counsel for the petitioner submits that vide the application dated 07.01.2025 (Annexure P-7) filed by the petitioner under Order 6 Rule 17 CPC the petitioner had sought a very innocuous amendment which would not have affected the rights of the parties. It is submitted that the said amendment was necessitated as Uma Kapoor, the mother of the petitioner had expired. As such, the petitioner had sought the present amendment to incorporate the factum of registered will dated 29.3.2016, executed by late Uma Kapoor, in favour of petitioner. Since the will has devolved the entire estate of deceased mother Smt. Uma Kapoor, therefore, it was necessary to



implead the execution of will and amend the plaint, accordingly. The petitioner wants to make the following amendments in the plaint: at the end of para No.1 of the plaint:

“On account of the demise of plaintiff No.1 Smt. Uma Kapoor on 05.10.2018 and having executed a duly registered will dated 29.03.2016 in favour of plaintiff No.2 Vinay Kapoor, the plaintiff No.2 Vinay Kapoor, has inherited all the rights in all the properties in question, of share of late Smt. Uma Kapoor and now he has become co-owner to the extent of one-half share in all the properties along with defendant No.1 & 3, who have got 1/4th share each.”

3. It is submitted by learned counsel for the petitioner that the amendment relates to subsequent developments, therefore the same cannot be declined on the ground of delay or due diligence.
4. It is further submitted by learned counsel that at the time of filing the suit the possession and rights over the property were different viz-a-viz after the death of the mother of the plaintiff No.1. Moreover, respondent can be compensated.
5. It is accordingly submitted that said information was necessary for the proper adjudication of the matter. As such the impugned order deserves to be set aside.
6. No other argument has been raised by learned counsel for the petitioner.
7. I have heard learned counsel for the petitioner and perused the case file in great detail.
8. I find no merit whatsoever in the submissions made on behalf of the petitioner. The present Civil suit (Annexure P-1) was filed by the plaintiffs on 30.05.2014 laying challenge to the Will executed by husband/father of



the plaintiffs in favour of the defendants. It may also be noticed that the application of the petitioner was resisted by the defendants by inter alia denying that deceased Uma Kapoor was having 1/4th share in the suit property or that the plaintiffs had become co-owners of the suit property. It had also been stated by the defendants that the amendment would change the nature of the entire suit; and that the application had been filed on the basis of forged and fabricated documents as Uma Kapoor was not having any share in the suit property.

9. The issues were framed in the matter vide order dated 16.09.2016. It is established position in law that amendment cannot be permitted after commencement of trial. As per proviso to the provision, the only situation in which amendment after commencement of trial is envisaged is if '*in spite of due diligence, the party could not have raised the matter before commencement of trial.*'
10. It has been argued by the petitioner that the present amendment is necessitated due to subsequent event of death of plaintiff no.1/mother of the petitioner. However, admittedly the plaintiff No.1 had expired on 05.10.2018; whereas the present application under Order 6 Rule 17 CPC has been filed by the petitioner on 07.01.2025 (Annexure P-7). No explanation whatsoever has been given by the petitioner as to the reasons for delay in filing the said application. Thus, the application of the petitioner is time barred.
11. Needless to say, the information sought to be brought on record by the petitioner was available with the petitioner on 5.10.2018 at the time of death of plaintiff No.1. Yet, application was filed by the petitioner only on 7.1.2025. It has also come on record that the petitioner had previously filed



amendment application which was allowed by the learned trial court. Even in the said application the petitioner had made no mention either regarding death of his mother/plaintiff No.1 or made any mention of the amendment now sought to be incorporated. Therefore, it appears that the petitioner has filed the present application purely within the view to delay the trial.

12.In view of the above, the instant revision petition is **dismissed**.

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

April 30, 2025

(NIDHI GUPTA)

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JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No