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

(126)

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Date of Decision: - 06.03.2025

Jagdish Chander**....Petitioner****Versus****Chander Kant Gautam and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Pritam Singh Saini, Advocate, and
Ms. Vibha Nagar, Advocate
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India seeking quashing/setting aside of the impugned order dated 04.07.2023 (Annexure P-7) passed by the Civil Judge (Jr. Division), Panipat, vide which application under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint has been allowed in Civil Suit bearing No.250 of 2017.

2. Present revision petition has been filed by defendant No.1. A perusal of the paper-book would show that respondent No.1-plaintiff had filed a suit for declaration and for permanent injunction and in the said suit, challenge was made to certain sale deeds. The petitioner had filed the written statement on 25.08.2017. On 05.04.2018, respondent No.1-



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plaintiff had filed an application under Order 6 Rule 17 CPC for amendment of the plaint and by virtue of the said application, the respondent No.1/plaintiff wanted to add the prayer for possession. The said amendment was allowed on 28.05.2018. The petitioner through his counsel had been appearing in the matter but subsequently stopped appearing and thus was proceeded against ex-parte on 04.10.2022. The respondent No.1/plaintiff filed another application dated 15.05.2023 for amendment of the plaint (which is the amendment in question) with respect to deletion of paragraphs laying challenge to sale deeds, on the ground that a suit bearing No.294 of 2017 titled as 'Jagdish Chander Vs. Reshma and others' had been instituted and in the said suit, respondent No.1-plaintiff had been impleaded as defendant No.7 and the trial Court vide judgment dated 31.10.2022 (Ex.P6 & Ex.7) had dismissed the said suit and had upheld the validity of the sale deeds, which had been challenged by the said Jagdish Chander (defendant No.1). It was stated in the said application that since the civil court had upheld the validity of the sale deeds, thus, respondent No.1/plaintiff wanted to delete the challenge to the said sale deeds.

3. Since the present petitioner was proceeded against ex parte, thus, there was no contest on behalf of the petitioner to the said application under Order 6 Rule 17 CPC dated 15.05.2023 and the trial Court vide order dated 04.07.2023 had allowed the said amendment. While allowing the said amendment, it was observed by the trial Court that since the amendment was based upon a subsequent event i.e. in view



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of the judgment passed in 'Jagdish Chander Vs. Reshma and others' and since the plaintiff was the master of the case and the present petitioner had already been proceeded against ex parte on 04.10.2022, thus, the amendment was allowed. Subsequent to the same, vide order dated 02.05.2024, the application filed by the petitioner for setting aside the ex parte proceeding was allowed "at this stage". In the said order, it was observed by the trial Court that the reasons given for non-appearance by the petitioner were unjust but the same was allowed in the interest of justice. The petitioner has now after a delay of more than one year and seven months chosen to file the present revision petition challenging the order dated 04.07.2023 by raising the plea that the amendment allowed is contrary to the original plaint and that prayer for possession has been added by the plaintiff.

4. This Court has heard learned counsel for the petitioner and has perused the paper-book and finds that the present revision petition deserves to be dismissed on the ground of delay and laches, estoppel and even on merits.

5. The order dated 04.07.2023 has been sought to be challenged after a delay of more than one year and seven months. The petitioner had admittedly filed the written statement and was thus aware of the proceedings, yet he chose not to appear and was thus proceeded against ex parte on 04.10.2022 and when the impugned order dated 04.07.2023 was passed, the petitioner had not joined the proceedings and had not even contested the application filed by the respondent No.1-plaintiff for



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amendment and thus, it is not now open to the petitioner to challenge the said order. Moreover, a perusal of the order dated 02.05.2024 (Annexure P-8) would show that the application filed by the petitioner for setting aside ex-parte proceeding was allowed subsequent to the impugned order dated 04.07.2023 and it was specifically mentioned in the same that the application had been allowed “at this stage” and the petitioner is estopped from challenging the order dated 04.07.2023. Further, a perusal of the order dated 04.07.2023 would show that the said amendment had been allowed after taking into consideration the subsequent development which had been projected by the respondent No.1/plaintiff in his application dated 15.05.2023, which was to the effect that after the filing of the suit, the trial Court vide judgment and decree dated 31.10.2022 had upheld the validity of the sale deeds which were challenged by the present petitioner, who was the plaintiff in the said earlier suit and that since the respondent No.1/plaintiff was also a defendant in the said suit i.e. defendant No.7 therein, thus, he had sought to delete the challenge to the said sale deeds.

6. It is a matter of settled law that on the basis of the subsequent events, the plaintiff would be entitled to make the necessary amendment. It would be further relevant to mention that as far as the argument on behalf of the petitioner to the effect that in the suit for declaration and permanent injunction the prayer for possession has been permitted to be added, it would be relevant to note that the said amendment was already allowed vide order dated 28.05.2018 (Anneuxre P-5), which is not the



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subject matter of challenge before this Court and thus, the said argument is meritless and deserves to be rejected.

7. The Hon'ble Supreme Court in the case of “**Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil**”, reported as (2010) 8 **Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

8. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and

accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

March 06, 2025
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(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes