



CR-1945-2025 (O&M)

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

(104)

CR-1945-2025 (O&M)

Date of decision:- 30.04.2025

Anita Sharma

...Petitioner

Versus

Dinesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Naveen Bawa, Advocate, for the petitioner.

SUVIR SEHGAL, J. (Oral)**CM-7714-CII-2025**

For the reasons given in the application, it is allowed.

Interim orders passed by the Trial Court are taken on record as Annexure P-6 (collectively).

CR-1945-2025

1. Aggrieved of order dated 05.02.2025, Annexure P-5, passed by the learned Civil Judge (Junior Division), Garhshankar, whereby an application filed under Order 6 Rule 17 CPC for amendment of the plaint, has been declined, petitioner-plaintiff has approached this Court by way of instant revision petition.

2. Counsel for the petitioner has submitted that the plaintiff filed a suit for specific performance of agreement to sell dated 05.01.2012, regarding land measuring 15 kanal 5 marlas, in Village Parsowal, Tehsil Garhshankar, for a total sale consideration of Rs.9 lacs. He states that the land was jointly owned by defendant No.1, and his family members. Defendant No.1 was one-third owner of the land, and his share works out to 5 kanal and 1 marla, but due to



inadvertence, suit had been filed qua the entire land measuring 15 kanal 5 marlas. He asserts that an application moved to amend the plaint has been erroneously rejected by the Trial Court vide order impugned herein. It is his argument that the amendment is necessary to bring the pleadings in consonance with the agreement to sell, Annexure P-2, in order to avoid any complication. He contends that amendment can be allowed and the respondents can be compensated with suitable cost.

3. I have heard counsel for the petitioner and considered his submissions besides examining the paper book as well as the interim orders of the Trial Court placed on the record.

4. Plaintiff filed the suit for specific performance on 18.05.2016, and due to non-appearance, defendant No.1, proceeded against ex parte. After the completion of the pleadings, Trial Court framed issues on 14.07.2023 and the proceedings were deferred to enable the plaintiff to produce her evidence. Despite repeated opportunities, plaintiff did not produce even a single witness and on 12.01.2024, moved an application under Order 6 Rule 17 CPC (for short “the first application”) for amendment of the plaint. This application was accepted by the Trial Court vide order dated 30.07.2024, and an amended plaint was filed. Defendant No.2 did not file reply to the amended plaint and the proceedings were again adjourned for evidence of the plaintiff. Repeated adjournments were sought by the plaintiff for producing evidence and without examining any witness, another application under Order 6 Rule 17 (for short “the second application”) was filed on 12.12.2024, Annexure P-3, which has been rejected by the Trial Court vide order impugned herein.



5. An examination of the second application, Annexure P-3, for amendment of the plaint shows that the plaintiff has averred that land had been wrongly mentioned as 15 kanal 5 marlas in the plaint on account of inadvertent mistake of the counsel for the plaintiff and this fact came to the notice of the plaintiff on 09.12.2024 while discussing the case with the counsel. No reason whatsoever has been assigned for not seeking an amendment regarding the area of the land when the first application for amendment was filed. From perusal of the interim orders passed by the Trial Court, it is apparent that the plaintiff is simply delaying the proceedings and is not interested in the adjudication of the suit. The alteration in the plaint sought to be introduced by him by virtue of second application for amendment is not bona fide. Second application has been filed by the plaintiff simply to protract the conclusion of trial. Proviso to Order 6 Rule 17 CPC provides that after the commencement of trial, it is the bounden duty of the party seeking amendment in the pleadings to show due diligence. Plaintiff has failed to discharge this burden and the application has been rightly declined. There is no irregularity or perversity in the order passed by the Trial Court.

6. Petition being bereft of merit is dismissed with no order as to cost.

(SUVIR SEHGAL)
JUDGE

30.04.2025
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes