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

(212)

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Date of decision: - 18.11.2025

Bhandari Interstate Carriers**....Petitioner****Versus****Improvement Trust Ludhiana and another****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. Mrigank Sharma, Advocate
for the respondents.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 02.03.2023 passed by the Civil Judge (Junior Division), Ludhiana, whereby an application under Order 6 Rule 17 read with Section 151 CPC filed by the petitioner has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner had filed a civil suit for mandatory injunction directing the defendants to execute the sale deed of plot No.113-B, Transport Nagar, Ludhiana as shown red in the Site Plan. It is further



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submitted that the respondents/defendants had filed a written statement but were subsequently proceeded against ex-parte. It is argued that during the pendency of the suit, the Government of Punjab issued One Time Settlement Policy dated 20.12.2016 and since the petitioner/plaintiff had fulfilled all the conditions of the said policy, thus, the defendants after thoroughly examining the case of the petitioner had vide letter dated 15.05.2017 asked the plaintiff to deposit certain amounts, which amounts were duly deposited. It is submitted that thereafter, the possession was given to the plaintiff however the sale deed had not been executed, thus, the petitioner wanted to add the said facts and was also seeking the relief of specific performance and accordingly, had moved an application under Order VI Rule XVII read with Section 151 CPC. It is argued that since the defendants were proceeded ex-parte, thus, the said application was unopposed but the trial Court by virtue of the impugned order dated 02.03.2023 has dismissed the application for amendment without considering the fact that the amendment is necessary for the proper adjudication of the case and would help in avoiding multiplicity of litigation.

ARGUMENTS ON BEHALF OF THE RESPONDENTS

3. Learned counsel for the respondents has fairly submitted that although the defendants were proceeded against ex-parte before the trial Court, but in case the amendment is dismissed, then, the plaintiff would have to file a fresh suit, which suit could be defended by the defendants and has thus submitted that the revision petition filed by the petitioner be



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dismissed.

ANALYSIS AND FINDINGS

4. This Court has heard learned counsel for the parties and has perused the paper-book and finds that the present revision petition is meritorious and deserves to be allowed and the impugned order passed by the trial Court is illegal and deserves to be set aside for the reasons stated hereinafter.

5. It is not in dispute that the plaintiff/petitioner had filed a civil suit with the following primary prayer: -

“Suit for Mandatory Injunction directing the Defendants to execute Sale Deed of Plot No.113-B, Transport Nagar, Ludhiana as shown Red in the Site Plan attached with the plaint and bounded as under:-

North :M/s Green Roadways

South :Road

East :M/s Geetanjli Road Lines

West :M/s Globe Transport Service”

A perusal of the above would show that the primary relief sought by the plaintiff/petitioner was a direction to the respondents/defendants to execute sale deed of plot No.113-B, Transport Nagar, Ludhiana. Written statement was filed by the defendants/respondents in the suit but thereafter, they stopped appearing and were proceeded against ex-parte. It is the case of the plaintiff that during the pendency of the suit, the Government of Punjab issued One Time Settlement Policy dated 20.12.2016 and since the plaintiff/petitioner had fulfilled all the conditions of the said policy, thus, the plaintiff



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applied to the defendants-Trust for settlement of its case and the defendants-Trust after thoroughly examining the case of the petitioner, vide letter dated 15.05.2017, directed the plaintiff to deposit certain amounts, which amounts were duly deposited by the plaintiff. It is also its case that the plaintiff had got the revised building plan sanctioned from the Municipal Corporation, Ludhiana and thereafter the possession of the suit property was handed over to the plaintiff and that the plaintiff/petitioner was always ready and willing to perform his part of the contract and had also paid the entire sale consideration of the suit property as per terms of the allotment and agreement to sale deed dated 21.07.2017 and now nothing is due towards the defendants.

6. In order to incorporate the said facts which admittedly had taken place during the pendency of the suit, an application under Order VI Rule XVII read with Section 151 CPC for amendment of the plaint and for adding an additional prayer of specific performance of the agreement to sell dated 21.07.2017 was filed. The relevant portion of the application for amendment is reproduced herein below: -

“16. That in the circumstances and reasons mentioned in above paras, the plaintiff wants to amend his plaint by incorporating the following amendments:-

i. That after 10th line of the Head Note and before word 'And' the plaintiff wants to add following para:-

"And suit for Specific Performance of the agreement of sale dated 21.07.2017 with direction to the defendant to execute the sale deed of suit property in favour of the plaintiff as per terms and conditions of the agreement dated 21.07.2017"



ii. That after para no. 23 and before para no. 24 of the plaint, the plaintiff wants to add following new paras:

“23.A That during pendency of this suit, the Govt. of Punjab issued one time settlement policy dated 20.12.2016. Copy of which is already on court file as Ex. PW-2/1 and Ex. D-1.

23.B That since the plaintiff fulfilled all the conditions of this policy, so, he also applied to the defendant-trust for settlement of his case under this policy.

23.C That the defendant-trust after thoroughly examining the case accepted the application of the plaintiff and vide its letter dated 15.05.2017 (copy as Ex. PW-2/1A already on the court file) asked the plaintiff to deposit Rs. 3,80,000/- break up of this amount is Rs. 44,000/- as balance sale consideration of this suit property, Rs. 3,35,450/- as amount of interest, penal interest and penalty, Rs. 250/- for execution of agreement of sale of this plot between the plaintiff and the defendant-trust and Rs. 100/- as expenses for preparation of sale deed of this suit property to be executed in favour of the plaintiff.

23.D That in compliance of the orders of the defendant-trust the plaintiff deposited Rs. 3,80,000/- vide LIT receipt no. 110874 dated 16.03.2017 and Rs. 10,000/- vide LIT receipt no. 11056 dated 13.02.2018 copy of LIT receipt of Rs. 3,80,000/- is Ex. PW-2/1A which is already on court file of this case. LIT receipt of Rs. 10,000/- is Annex. P-1 and copy of LIT letter dated 13.02.2019 that nothing is due towards plaintiff is Annex. P-2 and copy of allotment letter is Annex. P/2/B.

23.E That after accepting the entire sale consideration of this plot from the plaintiff, the defendant- trust executed agreement of sale of this plot with the plaintiff on 21.07.2017. Copy of this agreement of sale is Annex. P-3.

23.F That thereafter the defendant-trust asked the plaintiff to get revised building plan of this property sanctioned from the Municipal Corporation, Ludhiana. The plaintiff got the



revised building plan sanctioned from the Municipal Corporation Ludhiana after payment of Rs. 2,50,903/-, copy of M.C. Ludhiana letter dated 04.04.2018 is Annex. P-4, copy of M.C. Ludhiana receipt dated 30.01.2018 is Annex. P-3 and copy of the revised building plan is annex. P-4, but inspite of all this, the defendant did not execute the sale deed of this plot in favour of the plaintiff.

23.G That vide memo no. LIT/SB/7508 dated 13.03.2018 the defendant-trust asked the plaintiff to deposit Rs. 3,68,447/- as non-construction fine of this plot. The plaintiff deposited Rs. 3,68,447/- with the defendant- trust vide DD no. 445915 dated 17.07.2018 issued by Indian Bank, Ludhiana in favour of defendant-trust. Copy of LIT letter dated 13.03.2018 is Annex. P-7, copies of mandatory Govt. Circulars dated 26.06.1996 and 27.11.1997 are Annex. P-8 and Annex. P-9. But inspite of this the defendant-trust did not execute sale deed of this plot in favour of the plaintiff.

23.H That possession of this suit property has already been handed over to the plaintiff, as such, the plaintiff is already in possession of the suit property since its allotment to the plaintiff.

23.1 That the plaintiff has always been ready and willing to perform his part of the contract and he is still ready and willing to do all the things necessary for the performance of his part of the contract. He has paid the entire sale consideration of the suit property as per terms of the allotment and agreement to sale dated 21.07.2017 and now nothing is due towards the defendant.

23.J That the plaintiff several times approached the defendant to execute sale deed of the suit property in his favour but the defendant is always postponing the matter on one or the last pretext.

23.K That a month ago the defendant was again requested to execute sale deed of the suit property in his favour in terms



of the agreement of sale but the defendant-trust flatly refused to execute the sale deed of the suit property in his favour.

23.L That no suit for specific performance of the suit property has ever been filed or has finally been decided by any competent court of law."

iii. That in 4th line of para no. 31 in between word "assessed" and word "and" the plaintiff want to add the following words:-

“and for the Relief of Specific Performance is assessed at Rs. 4743/-”

iv. And in 6th line of para no. 31 in place of words "of Rs. 100/- the plaintiff wants to substitute:-

of Rs. 4843/-”

v. In 10th line of the prayer clause after word "services" and before word "and" the plaintiff want to add:-

“And suit for Specific Performance of the agreement of sale dated 21.07.2017 with direction to the defendant to execute the sale deed of suit property in favour of the plaintiff as per terms and conditions of the agreement dated 21.07.2017”

7. No reply was filed to the said application as the respondents/defendants were ex-parte before the trial Court. A perusal of the application for amendment would show that the facts which are sought to be incorporated in the suit are necessary for the proper adjudication of the case and the same would help in avoiding multiplicity of litigation. The argument raised by counsel for the respondents to the effect that in case the amendment is dis-allowed the petitioner would be required to file a fresh suit, on the face of its shows that allowing the amendment application would in fact help in avoiding multiplicity of litigation and once the subsequent facts mentioned in the amendment



application were with respect to the same plot regarding which the suit has been filed by the plaintiff and even the additional prayer sought to be made by the plaintiff was on the basis of the subsequent facts which have arisen during the pendency of the suit, then, it was incumbent upon the trial Court to allow the said amendment in order to fully and finally adjudicate the case. Moreover, any delay in the proceedings would primarily prejudice the plaintiff as it is the plaintiff/petitioner who has filed the suit for mandatory injunction for direction to the defendants to execute the sale deed and by virtue of the amendment is seeking specific performance of the agreement dated 21.07.2017. Moreover, no prejudice would be caused to the defendants as they have already been proceeded against ex-parte.

8. The Hon'ble Supreme Court of India in the case of ***Rajesh Kumar Aggarwal & Ors. vs. K.K. Modi & Ors.*** reported as ***2006(2) RCR (Civil) 577***. The relevant portion of the said judgment is reproduced hereinbelow:-

“13. The object of the rule is that Courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.

xxx xxx xxx

17. While considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the amendment and the merits of the amendment



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sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. This cardinal principle has not been followed by the High Court in the instant case.

xxx xxx xxx

Since the Court has entered into a discussion into the correctness or falsity of the case in the amendment, we have no other option but to interfere with the order passed by the High Court. Since it is settled law that the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing prayer for amendment, the order passed by the High Court is not sustainable in law as observed by this Court in Sampath Kumar vs. Ayyakannu and Another , (2002) 7 SCC 559.”

9. Thus, seeing from any which way, the amendment application should have been allowed. The order dated 02.03.2023 vide which the amendment application had been dismissed is against law and deserves to be set aside and the amendment application filed by the petitioner deserves to be allowed.

10. Keeping in view of the above-said facts and circumstances, the present revision petition is allowed and the impugned order dated 02.03.2023 passed by the Civil Judge (Junior Division), Ludhiana, is set aside and the application filed by the petitioner for amendment under Order 6 Rule 17 CPC is allowed.

November 18, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes