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

**CR-2831-2024 (O&M)**

**Date of Decision : 29.04.2025**

Gursewak Singh

... Petitioner(s)

Versus

Bhaghel Singh &amp; Ors

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Amit Arora, Advocate for the petitioner.

Mr. Sagar Aggarwal, Advocate for respondent No.1.

**ALKA SARIN, J. (Oral)**

1. The present revision petition has been filed challenging the order dated 08.04.2024 whereby the application filed by the defendant-petitioner for amendment in the written statement has been dismissed on the ground that it has been filed at a belated stage.

2. Learned counsel for the defendant-petitioner would contend that the written statement in the present case was filed on 05.07.2019 and the FIR dated 02.12.2019 was lodged at Police Station Tarn Taran qua the power of attorney dated 24.02.2016 being forged and fabricated. Being a subsequent fact, the defendant-petitioner wishes to bring this on the record in the pleadings. It is further the contention of the learned counsel that the evidence qua this has already been led, however, since there is no pleading in the written statement, therefore, necessity for filing the application.

3. *Per contra* the learned counsel for the plaintiff-respondent No.1 would contend that the evidence has already been led by the plaintiff-respondent No.1 and hence the application has rightly been dismissed having been filed at a belated stage.

4. I have heard the learned counsel for the parties.

5. In the present case, no doubt the application had been filed in 2022, however, the only amendment the defendant-petitioner is seeking is for addition of two paragraphs i.e. Para No.4A to the preliminary objections and Para No.2A on merits wherein the factum of lodging of the FIR dated 02.12.2019 is sought to be pleaded.

6. Hon'ble Supreme Court in the case of **Life Insurance Corporation of India vs. Sanjeev Builders Private Limited & Anr. [2023 (1) RCR (Civil) 851]** has held as under :

*“70. Our final conclusions may be summed up thus: (i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.*

*(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.*

*(iii) The prayer for amendment is to be allowed*

*(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and*

*(ii) to avoid multiplicity of proceedings, provided (a) the amendment does not result in injustice to the other side,*

*(b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and*

*(c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).*

*(iv) A prayer for amendment is generally required to be allowed unless*

*(i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,*

*(ii) the amendment changes the nature of the suit,*

*(iii) the prayer for amendment is mala fide, or*

*(iv) by the amendment, the other side loses a valid defence.*

*(v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.*

*(vi) Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.*

*(vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.*

*(viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.*

*(ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.*

*(x) Where the amendment changes the nature of the suit*

*or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.*

*(xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi & Ors., 2022 SCC OnLine Del 1897).”*

7. Since the amendment in the present case is qua a subsequent event, no injustice would be caused to the plaintiff-respondent No.1 in case the said application for amendment is allowed. Merely because the application has been filed at a belated stage would not itself be a ground to dismiss the same.

8. In view of the above, the present revision petition is allowed and the impugned order dated 08.04.2024 (Annexure P-4) stands set aside. The defendant-petitioner is permitted to amend his written statement, subject

to payment of ₹30,000/- as costs to be paid to the plaintiff-respondent No.1, which shall be a condition precedent.

9. Disposed off accordingly. Pending applications, if any, also stand disposed off.

10. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case and in case the costs are not paid, the present revision petition shall be deemed to having been dismissed.

29.04.2025  
Yogesh Sharma

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO