



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

132

CR No.3573 of 2025 (O&M)
Date of decision: 01.07.2025

Anand Rathee @ Aanand

...Petitioner

V/s

Superintendent of Post Office, Sonipat Division

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Mayank Aggarwal, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The instant revision petition assails the order dated 21.01.2025 (Annexure P-8) passed by the Court of Additional Civil Judge (Sr. Divn.), Ganaur, vide which the application filed by the respondent-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short the "CPC") for the amendment of plaint was allowed.

2. A suit for recovery of Rs.65,87,428/- (Annexure P-1) was filed by the respondent-plaintiff against the petitioner-defendant, who had been posted as a Postal Assistant in the Head Post Office at Sonapat. The allegation was that he had embezzled the said amount. It was also stated in the suit that the matter was being enquired into and subsequently, if more embezzlement was found, the plaint would be accordingly amended.

3. An application under Order 6 Rule 17 CPC (Annexure P-6) was moved seeking amendment of the plaint. The case set up was that an additional fraud of Rs.53,03,870/- had been detected, which had been committed by the defendant in the funds of the post office. Under the circumstances, the requisite amendment was sought to be made in the plaint and the total amount sought to be recovered was stated to be Rs.1,18,91,298/-.



4. The application was opposed by way of reply (Annexure P-7), in which the averments made were denied. It was averred that the application was not maintainable as it sought to introduce a time barred relief. It was averred that the suit had been filed on 15.03.2019, whereas the application had been filed on 29.11.2022. Other averments were also denied.

5. By way of the impugned order, the application was allowed, leading to the filing of the present revision petition.

6. I have heard learned counsel for the petitioner and have perused the paper-book.

7. Learned counsel for the petitioner has strenuously urged that the impugned order is not sustainable. He submits that the suit was initially instituted on 15.03.2019 and the enquiry which was stated to be pending earlier concluded on 08.01.2021. He submits that issues were framed on 19.02.2021 i.e. after the enquiry concluded and, therefore, the application, if any, should have been moved before the framing of issues. Learned counsel submitted that in view of the proviso to Order 6 Rule 17 CPC, since the trial had already commenced, the amendment could not have been allowed. Learned counsel further submitted that the respondent-plaintiff had failed to show that they had diligently pursued its case and, therefore, the application for amendment should not have been allowed. In support of his contentions, learned counsel has placed reliance upon the judgments in the case of ***Ajendraprasadji N. Pande and another V/s Swami Keshavprakeshdasji N. and others, 2006 SCC Online SC 1368; Chander Kanta Bansal V/s RAjinder Singh Anand (Civil Appeal No.1893 of 2008, decided on 11.03.2008)*** and ***Gurbhej Singh and others V/s Dalip Kaur and others (CR-229-2018, decided on 13.11.2019).***



8. I have considered the submissions made by learned counsel for the petitioner and have perused the paper-book.

9. The suit (Annexure P-1) was instituted by the respondent-plaintiff for recovery of Rs.65,87,428/-. The defendant was working as a Postal Assistant in Sonepat Post Office and had additional charge of Ganaur Post Office from 29.06.2016. He had absented from duty w.e.f. 07.10.2016. The case set up was that from 29.05.2013 to 23.06.2016, he misused several closed accounts of various depositors that had been left active online and misappropriated/embezzled amounts from many accounts, the details of which were given in the plaint. An FIR was also got registered against the petitioner and his account was also frozen. In paragraph 5 of the plaint, it was averred that enquiries were being carried out and till the filing of the suit, fraud of Rs.65,87,428/- had been detected but the department was still to arrive at a final figure;

“5. That the Post Office Authorities are doing investigations against the defendant so far a fraud of Rs.6587428/- has been detected by the Postal Department, however, it is still to arrive at a final figure.”

10. Still further, in paragraph 9 of the plaint, it was averred that the matter was under investigation and the final figure of embezzlement was yet to be ascertained. It was averred that the plaintiff, therefore, reserved the right to amend the plaint accordingly;

9. That the value of the suit for the purpose of Court fee and jurisdiction is Rs.6587428/- on which a requisite Court fee Rs.205820/- has been affixed on the plaint.

As the matter is under investigation and a final figure of embezzlement committed by the defendant is yet to be ascertained, therefore, the plaintiff reserves the right to amend the plaint accordingly and undertake to pay the advalorem Court fee accordingly when the settlement of all accounts is arrived upon.”



11. Concededly, after pleadings were completed, issues in the case were framed on 19.02.2021 (Annexure P-3). As per the petitioner, the enquiry concluded on 08.01.2021. However, the enquiry report on record is Annexure P-5, which is of 14.09.2022. The articles of charges as regards misappropriate/embezzlement etc. were proved vide the said enquiry report. The application for amendment of the plaint was moved on 29.11.2022. No doubt, the application was not happily worded in as much as, it did not mention the date etc. of the enquiry report. As noticed above, the enquiry was concluded on 14.09.2022. Even if it is considered that it was of 08.01.2021, as stated by the petitioner, the claim sought to be introduced by way of amendment would not be time barred. It has to be borne in mind that some latitude has to be granted to Government agencies, which are normally found to be lacking in pleadings and diligence in pursuing their cases. However, since the suit was for recovery of a huge amount of public money, the trial Court did not commit any illegality in allowing the application since the interest of justice demanded the same. The trial Court rightly placed reliance upon the judgment of the Supreme Court of India in the case of ***Life Insurance Corporation of India V/s Sanjeev Builders Pvt. Ltd. (Civil Appeal No.5909 of 2022, decided on 01.09.2022)*** and other judgments on the subject while allowing the application.

12. I have perused the judgments, reliance upon which has been placed by learned counsel for the petitioner. All judgments refer to the proviso to Order 6 Rule 17 CPC holding that a party seeking amendment has to prove that inspite of due diligence, the matter could not have been raised before the commencement of the trial. There is absolutely no dispute in the ratio of law laid down in the said judgments, which is also the statutory require-



ment. However, for the reasons given in the preceding paragraphs, the said judgments would not come to the aid of the petitioner.

13. In view of the aforesaid, I do not find any illegality in the impugned order warranting interference.

14. That being so, I do not find any merit in the instant revision petition and the same is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

July 01, 2025

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No