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

CR-5083-2024 (O&M)

Date of Decision : 18.11.2025

RAM MILAN

.... Petitioner

VERSUS

GAGANDEEP SINGH

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Kumar Saini, Advocate for the petitioner.

Mr. Vrishank Suri, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 03.08.2024 passed by the learned Civil Judge (Junior Division), Ludhiana whereby the application dated 16.05.2024 (Annexure P-2) filed by the plaintiff-petitioner under Order VI Rule 17 CPC for amendment of the plaint was rejected.

2. Briefly, the facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for permanent injunction for restraining the defendant-respondent herein either himself or through his agents, servants, employees, relatives and attorneys from dispossessing and interfering in the peaceful possession of the plaintiff-petitioner over the suit property and further from demolishing the shop of the plaintiff-petitioner. In the plaint, one Paramjit Singh Wasir son of not known was impleaded as defendant No.1. In para No.3 of the plaint it is stated that defendant No.1 along with his son i.e.

defendant No.2 (respondent herein) and other henchmen had made an unsuccessful attempt to dispossess and interfere in the peaceful and lawful possession of the plaintiff-petitioner. In the written statement it was stated that defendant No.1 had already died on 22.10.2023. An amendment application (P-2) was filed by the plaintiff-petitioner within a period of 22 days from filing the plaint and the only amendment the plaintiff-petitioner sought was for impleading 'Harjit Kaur wife of Shri Paramjit Singh Wasir son of not known' in place of 'Paramjit Singh Wasir son of not known' as it was stated in the application that due to a typographical mistake at the time of the printing the suit, the name of defendant No.1 could not be printed as Harjit Kaur wife of Paramjit Singh Wasir son of not known and only Paramjit Singh Wasir son of not known was mentioned. Reply was filed to the said application. Vide the impugned order dated 03.08.2024 the application was dismissed. Hence, the present revision petition by the plaintiff-petitioner.

3. Learned counsel for the plaintiff-petitioner while relying upon the judgment in the case of **Life Insurance Corporation of India V/s Sanjeev Builders Private Limited & Anr. [2023 (1) RCR (Civil) 851]** has contended that the amendment sought is only for correction of a typographical mistake and that it would not divest the defendant-respondent of any valuable rights which may have accrued in his favour. It is further the contention of the learned counsel that the defendant-respondent is not going to lose any valid defence as there is no specific denial to para No.3 of the plaint.

4. *Per contra*, learned counsel for the defendant-respondent would contend that the suit was filed against a dead person and it was only once the

written statement was filed that the present application was filed to fill in the lacunae. It is further the contention of the learned counsel that there was no cause of action in favour of the plaintiff-petitioner and a false suit had been filed.

5. Heard.

6. In the present case the only amendment sought is for change in the title as it has been stated in the application that due to a typographical mistake instead of 'Harjit Kaur wife of Shri Paramjit Singh Wasir son of not known', 'Paramjit Singh Wasir son of not known' was mentioned. The amendment, which has been sought, is prior to framing of the issues i.e. the trial is yet to begin. The provisions of Order VI Rule 17 CPC read as under :

'ORDER VI

Pleadings generally

17. Amendment of pleadings.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

7. The Hon'ble Supreme Court in the case of **Sanjeev Builders Private Limited** (supra) 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 malafide, 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).”

8. In view of the law laid down by the Hon’ble Supreme Court in the case of **Sanjeev Builders Private Limited** (supra) and in view of the fact that the amendment is only for correction of a typographical mistake, the impugned order dated 03.08.2024 (Annexure P-4) cannot be sustained and the same is accordingly set aside. The application under Order VI Rule 17 CPC (Annexure P-2) filed by the plaintiff-petitioner for amendment is allowed

subject to payment of ₹30,000 as costs to be paid to the defendant-respondent.

The payment of costs shall be a condition precedent.

9. Needless to say, any observations made herein shall not be treated as an expression of opinion on the merits of the case.

10. Revision petition stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

18.11.2025

Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No