

CR-4614-2022

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2025:PHHC:161233



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-4614-2022

Date of decision : 19.11.2025

Harpreet Singh

... Petitioner

Versus

Suman Lata Sud and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Kartik Gupta, Advocate
for the petitioner.

Mr.Arn timer Kumar, Advocate
for respondents no.1 and 2.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 15.09.2022 (Annexure P-8) passed by the Additional Civil Judge (Sr.Div.), Hoshiarpur, vide which the application of the petitioner under Order 6 Rule 17 CPC for amendment of the written statement has been dismissed.

ARGUMENTS ON BHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that in the present case, plaintiffs-respondents no.1 and 2 have filed suit for declaration that they were owners of the property in question and in the said suit, it had been specifically pleaded in paragraph 1 that Prem Kumar Sud was husband



of plaintiff no.1 and father of plaintiff no.2, who died on 20.12.2007 and after his death, the plaintiffs have inherited his estate. It is submitted that although the defendant no.1-petitioner in his written statement has not denied the said aspect but in the written statement filed by defendant no.3, it had been stated that the plaintiffs were neither owner nor in possession of any part of the property and in response to the averments made in paragraph 1 of the plaint, it had been stated that there is every likelihood that the plaintiffs are imposter. Learned counsel for the petitioner has submitted that Rajat Sud-plaintiff no.2 had stepped into witness box as PW-4 and in his cross-examination had admitted that his father's name was Bal Kishan Sud and the name of his mother was Vijae Sud and thus, the pleading in the plaint to the effect that the plaintiffs were legal representatives of Prem Kumar Sud was prima facie shown to be false.

3. It is submitted that the petitioner thereafter moved an application under Order 6 Rule 17 CPC to make an amendment in paragraph 1 of the written statement wherein they have not denied that the plaintiffs were the legal heirs of Prem Kumar Sud and wanted to deny the said fact, which fact was apparent from the cross-examination of PW-4. It is submitted that the said amendment was in consonance with the cross-examination of PW-4 and should have been allowed and at any rate, defendant no.3 had already taken an objection on similar lines. It is submitted that the impugned order, vide which the said application has been dismissed, is illegal and against law and deserves to be set aside and the



application filed by the petitioner for amendment of the written statement deserves to be allowed.

ARGUMENTS ON BEHALF OF RESPONDENTS NO.1 AND 2

4. Learned counsel for respondents no.1 and 2, on the other hand, has opposed the present revision petition and has submitted that the suit in the present case was filed on 07.07.2015 and the said PW-4 was cross-examined on 15.10.2019, whereas the present application has been filed by the petitioner after the entire evidence was over in the year 2022. It is submitted that even prior to filing the present application for amendment, another application for amendment was filed after the evidence of PW-4 and the said amendment application was allowed on 29.03.2022. It is submitted that at that stage, it was open to the petitioner to raise the plea which is now sought to be raised, but was never raised and that the amendment application is hit by the proviso to Order 6 Rule 17 CPC as there is no due diligence. It is further argued that the petitioner by virtue of the said amendment, wanted to withdraw the admission which has not been remotely explained by him during the course of trial although his evidence is completed. In support of his arguments, learned counsel for the respondent has relied upon the judgment passed by this Court in ***CR-5788-2019*** titled as ***“Harbans Kaur and another vs. Mohinder Singh (deceased) through his LRs and others”*** decided on 24.09.2025.

ANALYSIS AND FINDINGS

5. This Court has heard learned counsel for the parties and has



perused the paper book and finds that the present revision petition is meritless and deserves to be dismissed and the impugned order vide which the application under Order 6 Rule 17 CPC filed by the petitioner has been dismissed, deserves to be upheld.

6. It is not in dispute that respondents no.1 and 2 had filed suit on 07.07.2015 for declaration to the effect that the plaintiffs were the owners of the property in question. Paragraph 1 of the said plaint is reproduced hereinbelow:-

“1. That the plaintiffs are the permanent residents of 74/2 lower Bazar, Shimla. Sh. Prem Kumar Sud was the husband of Plaintiff No.1 and father of plaintiffs No.2, who died on 20.12.2007 and after his death the plaintiffs being his only legal heirs inherited his estate. Prem Kumar Sud was the owner of the property detailed and described in the head note of the plaint.”

A perusal of above would show that it was the case of the plaintiffs that the plaintiffs were the legal heirs of Prem Kumar Sud and had inherited his estate.

7. Further in paragraph 4 of the plaint, it was further the case of the plaintiffs that they were owners of the suit property and the defendants had no right in the same.

8. Defendant no.1-petitioner had filed written statement. Paragraphs 1 and 2 on merits of the written statement is reproduced



hereinbelow:-

“1. That it is not denied that Prem Kumar Sood was owner of the disputed property and after his death the plaintiffs have inherited the suit property.

*2. That the fact as mentioned in this para of the plaint are not admitted and are denied. The suit property was open plot and no construction was existing on it when the answering defendant purchased the suit property. That one Rajat Sood represented himself to be co-owner of suit property and executed a Sale Deed dated 16.04.2014 for a sum of Rs. 7.00 Lac in respect of 7 Marla of Plot. He delivered original Sale Deed dated 28.07.1976 to answering defendant also. He also provided a voter ID Card and his Adhar Card. He was duly identified by Lambardar, therefore, the answering defendant got sale deed executed and registered. **Therefore Rajat Sood represented himself to be general attorney of plaintiff Suman Lata Sood and executed a Sale Deed dated 23.04.2014 in respect of plot (tour) for a consideration of Rs. 7.00 Lac.** The vendor delivered possession of the entire plot after execution of both the sale deeds respectively. The answering defendant is bona fide purchaser for consideration without knowledge of any act of alleged impersonation by him. Thus the rights of answering defendant are protected. The facts mentioned in this*



para of the plaint which are contrary to that of the written statement are wrong and denied.”

A perusal of the above would show that in the written statement neither the ownership of Prem Kumar Sud nor the fact that the plaintiffs had inherited the suit property after his death have been denied. Importantly, in paragraph 2, it was the case of the petitioner that Rajat Sud, representing himself to be the general attorney of the plaintiff Suman Lata Sud, had executed sale deed on 23.04.2014 and thus, the defendant no.1-petitioner was bonafide purchaser. A perusal of the averments made in paragraph 2 of the written statement would show that the petitioner has admitted the ownership of the plaintiff Suman Lata Sud and the pleas sought to be raised by the petitioner were that he had purchased the property from Rajat Sud, who was the general attorney of the said plaintiff.

9. It would be relevant to note that the averments made in paragraph 2 are not sought to be amended and thus, the petitioner has participated in the trial proceedings on the admitted case that the plaintiff Suman Lata Sud is the owner of the property and the plaintiffs were the legal representatives of Prem Kumar Sud and were the owners of the property. After framing of the issues and commencement of the trial, both the parties have led their evidence and it is not in dispute that the present application under Order 6 Rule 17 CPC has been filed after the entire evidence has been led and the case was fixed for rebuttal evidence and arguments. Nothing has been shown to this Court that the petitioner had



explained the admission made in the written statement during the course of trial. After entire evidence has been led, the petitioner had made an endeavour to withdraw from the admission made in paragraph 1 of the written statement and had tried to deny that the plaintiffs are legal heirs of Prem Kumar Sud and had inherited the property. It is reiterated that no amendment to paragraph 2 has been sought and thus, averments made in paragraph 2 of the written statement, which itself shows that the petitioner is admitting the plaintiff Suman Lata Sud to be owner of the property has not been disputed. The trial Court while dismissing the application under Order 6 Rule 17 CPC has observed that the petitioner cannot be permitted to withdraw the admission made in the written statement after the entire evidence has been led, at the fag end and that allowing amendment would put the clock back and same would be detrimental to the respondent no.1 and 2-plaintiffs. The observations made in the impugned order are in accordance with law and deserves to be upheld. The petitioner cannot be permitted to withdraw the specific admissions made by him in paragraph 1 of the written statement.

10. Additionally, it would be relevant to note that the issues in the present case had been framed and thus, the trial had commenced and the entire evidence had already been recorded before the application under Order 6 Rule 17 CPC was filed. It cannot even remotely be said that the application under Order 6 Rule 17 CPC was moved with due diligence. Rather, learned counsel for respondent no.1 and 2 has stated, which fact has



not been disputed on behalf of the petitioner, that after the evidence of PW-4 which had been concluded on 15.10.2019, the petitioner had moved a prior application for amendment of the written statement to take a legal plea, which he alleged had arisen from the cross-examination of PW-4 Rajat Sud and the said application for amendment was allowed vide order dated 29.03.2022 on payment of costs of Rs.2500/-. The denial of the rights of the plaintiff as mentioned in para 1 of the plaint, should have been first made in the initial written statement and at any rate, prior to the framing of issues which was not done. Even after PW-4 was examined in 2019, no such application was immediately filed and the first application for amendment was also filed in February, 2022 which was allowed on 29.03.2022 and in the said application also, no such amendment, as is now sought, was sought. The second application for amendment is even subsequent to the said application and has been filed after the entire evidence has been completed. Thus, the amendment application is also hit by proviso of Order 6 Rule 17 CPC and deserves to be rejected on the said ground also.

11. The Hon'ble Supreme Court in the case of ***Ajendraprasadji N. Pande and another Vs. Swami Keshavprakeshdasji N. and others***, reported as ***2006(12) SCC 1***, had observed that trial is deemed to commence when the issues are settled and the case is set down for recording of evidence and for the purpose of satisfying the requirement of Order 6 Rule 17 CPC (as amended), the necessary particulars are required to be mentioned in the application which would satisfy the requirement of law.



12. The Hon'ble Supreme Court in the case of *Vidyabai and others vs. Padmalatha and another* reported as *2009(2) SCC 409* had further observed that the proviso to Order 6 Rule 17 CPC restricts the power of the Court and it puts an embargo on the exercise of its jurisdiction and the Court's jurisdiction in a case where amendment is sought after the commencement of the trial is limited. In the said case, defendants therein had moved an application for amendment after issues had been framed and the plaintiffs' witnesses therein had filed affidavit by way of evidence and the trial Court had dismissed the application under Order 6 Rule 17 CPC whereas the High Court had allowed the said application under Order 6 Rule 17 CPC. The Hon'ble Supreme Court, after considering the law on the point and also after taking into consideration the proviso to Order 6 Rule 17 CPC had set aside the order of the High Court and had upheld the order of the trial Court dismissing the application. Additionally, it was observed that the High Court while setting aside the order did not satisfy the test of judicial review and it had not been found that the trial Court had exceeded its jurisdiction in passing the impugned order therein nor it had been found that there was any error of law committed by the trial Court. The law laid down in the abovesaid case would fully apply in the present case as it is not in dispute that there was no due diligence in filing the application for amendment and thus, amendment sought was hit by the proviso to Order 6 Rule 17 CPC.

13. The Hon'ble Supreme Court in the case of *"Shalini Shyam*



Shetty and another Vs. Rajendra Shankar Patil", reported as **(2010) 8 Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227, but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

14. Keeping in view the above said facts and circumstances, the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

15. It is however relevant to note that the observations made in the



present order are only for the purpose of considering the legality or otherwise of the impugned order vide which the application under Order 6 Rule 17 CPC of the petitioner has been dismissed and should not be construed as an expression on the final merits of the case before the trial Court and the trial Court would decide the suit independent of the observations made in the present order.

(VIKAS BAHL)
JUDGE

November 19, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No