

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114)

CR-5380-2025 (O&M)

Date of Pronouncement:-13.11.2025

Rekha Sharma

... Petitioner

Versus

Kamlesh Pradhan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. R.S. Mamli, Advocate
for the petitioner.

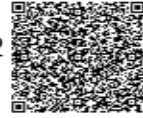
VIRINDER AGGARWAL, J.(ORAL)**CM-22549-CII-2025**

1. In view of the grounds set forth in the application, the same is hereby allowed. The copy of the plaint is directed to be taken on record as ***Annexure A-1***. The requirement of filing its certified copy is dispensed with, subject to all just and equitable exceptions.

1.1. Accordingly, the application stands disposed of in the above terms.

Main Civil Revision

2. The petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India to challenge the legality, propriety, and correctness of the order dated 08.07.2025 (Annexure P-3), rendered by the learned Additional Civil Judge (Senior Division), Gurugram. By the impugned order, the learned Trial Court dismissed the petitioner's application seeking amendment of the plaint, thereby declining to permit

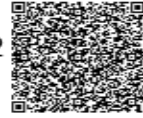


incorporation of the proposed pleadings which, according to the petitioner, were essential for the just and effective adjudication of the matter.

3. Briefly stated, the petitioner–plaintiff instituted a suit for declaration with consequential reliefs of possession and permanent injunction in the year 2016, asserting ownership over a plot measuring 250 square yards on the strength of a General Power of Attorney, affidavit, and agreement to sell. During the pendency of the said suit, the petitioner moved an application under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the plaint.

3.1. It is pertinent to note that the petitioner had earlier filed a suit in the year 2008 against the respondent–defendant seeking possession of the same property; however, the said suit was dismissed as non-maintainable on the ground that the petitioner had failed to seek the requisite relief of declaration of title. In order to cure this defect and to bring on record facts essential for proper adjudication of the dispute, the petitioner, by way of the present amendment application, sought to incorporate an additional relief of declaration to the effect that the sale deed dated 11.06.1990 executed in favour of Smt. Kamlesh Pradhan was void and inoperative, as the same was allegedly executed by Roshan Lal and others subsequent to the execution of an earlier sale deed dated 26.03.1990 in favour of Shri Jatinder Kumar Bansal, proforma respondent No. 3. The petitioner, therefore, prayed that the subsequent sale deed dated 11.06.1990 be declared null and void qua his rights.

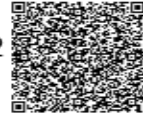
4. Upon consideration of the application and the submissions advanced by the parties, the learned Civil Judge declined to accede to the petitioner’s request and consequently dismissed the application.



5. The impugned order is assailed on the grounds that the learned Civil Judge failed to apply the established legal principle that amendments to pleadings ought to be permitted with a liberal and beneficial approach so as to subserve the ends of justice. It is further contended that the learned Trial Court overlooked that an amendment which is necessary for the effective and complete determination of the *lis* particularly one intended to cure the procedural infelicity which rendered the petitioner's earlier suit non-maintainable ought to have been allowed unless it would occasion undue prejudice to the opposite party or cause the trial to be defeated on wholly untenable grounds. The petitioner avers that the proposed amendment did not raise a new cause of action but only sought declaratory relief essential for adjudicating the core controversy between the parties, and that the learned Civil Judge misdirected himself in declining the same.

6. I have heard learned counsel for the petitioner at length, examined the record and the paper-book with minute care, and considered the rival submissions and material on file. Having given anxious consideration to the contentions advanced and to the surrounding facts and circumstances, I proceed to record my findings for the reasons set forth below.

7. A perusal of the impugned order reveals that the learned Additional Civil Judge (Senior Division) placed reliance upon the legal principles enunciated by the Hon'ble Supreme Court in **Ravejeetu Builders & Developers v. Narayanaswamy & Sons, (2009) 10 SCC 84**. The Trial Court proceeded on the premise that amendments which, in substance, seek to introduce claims barred by limitation ought not to be permitted, and accordingly reproduced the pertinent passage from the said pronouncement



in support of its conclusion. The relevant extract from the judgment was set out by the Court as follows:-

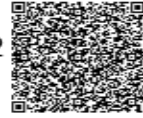
“:67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

- (1) Whether the amendment sought is imperative for proper and effective adjudication of the case?*
- (2) Whether the application for amendment is bona fide or mala fide?*
- (3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;*
- (4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;*
- (5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? And*
- (6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.*

68. These are some of the important factors which may be kept in mind while dealing with application filed under Order VI Rule 17. These are only illustrative and not exhaustive.

69. The decision on an application made under Order VI Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner.

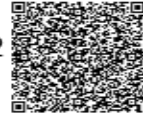
70. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.”



8. The learned Civil Judge dismissed the amendment application on multiple grounds, most notably on the premise that the relief sought to be introduced by way of amendment was ex facie barred by limitation. Upon a comprehensive examination of the pleadings, the amendment application, and the impugned order, it becomes evident that the petitioner–plaintiff admittedly became aware of the sale deed executed in favour of defendant No. 1 in the year 2008, when defendants No. 1 and 2 filed their written statement in the earlier suit. In terms of Article 58 of the Limitation Act, 1963, a suit seeking declaratory relief must be instituted within three years from the date on which the right to sue first accrues. Therefore, ‘*causa actionis*’ arose in favour of the petitioner in 2008 itself.

8.1. However, the petitioner chose to file the present amendment application only in 2017, i.e., nearly nine years after the accrual of the cause of action, and well beyond the prescribed period of limitation. Thus, the learned Civil Judge correctly concluded that the proposed amendment sought to introduce a claim which, as on the date of the application, was hopelessly time-barred; and allowing such an amendment would offend the principle of ‘*vigilantibus non dormientibus jura subveniunt*’ (the law assists the vigilant and not those who sleep over their rights).

8.2. Furthermore, the Trial Court rightly observed that the petitioner was fully aware, since 2008, of the registered sale deed in favour of defendant No. 1, yet failed to assail its validity within the limitation period. No satisfactory explanation much less a cogent or credible one was offered for this prolonged and unexplained delay. Permitting such an amendment at this belated stage would inevitably prejudice the defendant by unsettling the vested rights arising out of the sale deed, which had also attained finality in



CS/25/2008. Any attempt to reopen matters already concluded would run contrary to the doctrine of '*interest reipublicae ut sit finis litium*' (it is in the interest of the State that there should be an end to litigation).

8.3. In light of the foregoing, and considering that the proposed amendment was clearly barred by limitation, sought to disturb settled rights, and lacked any justification for the inordinate delay, no illegality, perversity, jurisdictional error, or improper exercise of discretion can be attributed to the order of the Court below. The impugned order does not warrant interference in the exercise of supervisory jurisdiction, and the revision petition is, therefore, dismissed.

9. However, it is made abundantly clear that the observations recorded here-in-above are not to be construed, directly or indirectly, as an expression of opinion on the merits of the substantive dispute between the parties. The findings and remarks are confined strictly to the adjudication of the present revision and the limited controversy arising therefrom. Nothing stated in this order shall prejudice the rights of either party during the final adjudication of the suit or any other proceedings on merits.

10. In view of the fact that the main revision petition has been finally disposed of, all pending miscellaneous applications, if any, shall also stand disposed of accordingly, without any further orders.

(**VIRINDER AGGARWAL**)
JUDGE

13.11.2025
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No