



CR No. 5912 of 2025 (O&M)

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5912 of 2025 (O&M)
DATE OF DECISION: 09.09.2025

KULWINDER KAUR

.....PETITIONER

Vs.

THE JAMMU & KASHMIR BANK AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Munish Gulati, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition, filed under Article 227 of the Constitution of India, is for setting aside the impugned order dated 16.07.2025, passed by the learned Civil Judge (Junior Division), Moga, in Civil Suit No. 741 of 2022, titled as *The Jammu and Kashmir Bank vs. Kulwinder Kaur and others*, whereby the application filed by the petitioner-defendant No. 1 has been dismissed.

2. The brief facts of the case are that the contesting respondent No. 1-plaintiff, through its constituted attorney and Senior Executive, Sh. Tarsem Lal, instituted a suit for recovery of ₹3,76,525/- along with interest against the petitioner-defendant No. 1 Kulwinder Kaur and proforma respondents No. 2 to 7.

2.1 Notice of the suit was issued to the petitioner-defendant No. 1, who filed the written statement. Issues were framed. Both parties led their



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evidence and thereafter, an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, *the CPC*), was filed by the petitioner-defendant No. 1 before the learned lower court. Notice of the said application was issued to the contesting respondent No. 1-plaintiff, who filed a reply thereto. After considering the rival contentions of learned counsel for the parties, the learned lower court dismissed the application under Order VI Rule 17 of the CPC.

3. Learned counsel for the petitioner-defendant No. 1 submits that the petitioner sought to amend the written statement on the following points:-

“a) in paras of preliminary objections of the suit, the following para is required to be incorporated at the end that "That suit of the plaintiff is liable to be dismissed, as the defendants have not inherited any estate of deceased Parwinder Kumar, thus under no law of the land the plaintiff has any right to seek any recovery from the defendants on the basis of any alleged loan allegedly taken by Parwinder Kumar during his lifetime while the defendants do not admit the fact and factum of alleged loan".

b) the following para is required to be incorporated at the end of preliminary objections "That suit of plaintiff is liable to be dismissed, as the same is barred under SARFAESI Act, as the plaintiff in its plaint has alleged that the proceedings under SARFAESI Act were initiated prior to filing of the present suit."

4. At the same time, it is submitted that the proposed amendments were necessary, as only then could the Court properly appreciate and adjudicate the matter in controversy. The learned lower



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court did not appreciate the above facts and wrongly dismissed the application under Order VI Rule 17 of the CPC.

4.1 Thus, it is submitted that the impugned order dated 16.07.2025 may be set aside and the application under Order VI Rule 17 of the CPC be allowed.

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

6. In view of the order proposed to be passed, notice is not being issued to the respondents, as it would delay the proceedings besides entailing additional expense to them.

7. Keeping in view the facts and circumstances of the present case, and after hearing learned counsel for the petitioner-defendant No. 1, and as discussed above, the contesting respondent No. 1-plaintiff had already concluded its evidence. Even DW-1 had tendered an affidavit as Ex. DW-1/A, whereafter the application for amendment of the written statement was filed.

8. It is well settled that the Court shall not allow amendment in pleadings once the trial has already commenced. However, the Court may allow such amendment if it is satisfied that, despite due diligence, the party could not have raised the matter before commencement of the trial. On this point, reliance is placed upon the judgment of the Hon'ble Supreme Court in *Baldev Singh vs. Manohar Singh*, 2006 (3) RCR (Civil) 844.

9. Coming to the facts of the present case, as noticed above, issues had been framed by the learned lower court and the contesting



respondent No. 1-plaintiff had already closed its evidence. The petitioner-defendant No. 1 could not establish before the learned lower court that she was unaware of the facts now pleaded in the application under Order VI Rule 17 of the CPC. Rather, this Court finds that the petitioner had not acted with due diligence, as she could have raised the proposed objections/amendments at the time of filing the written statement on 12.08.2024. Since the application for amendment of the written statement was moved at a belated stage, i.e. after commencement of trial and after the contesting respondent No. 1-plaintiff had already led its evidence, this Court is of the opinion that the learned trial court rightly dismissed the application filed by the petitioner-defendant No. 1 under Order VI Rule 17 of the CPC.

10. Accordingly, this Court finds no merit in the prayer for setting aside the order dated 16.07.2025 passed by the learned Civil Judge (Junior Division), Moga.

11. Finding no illegality in the order dated 16.07.2025, the present revision petition, being devoid of merit, is dismissed.

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

September 09, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes/No
Whether Reportable	Yes/No