



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

206

CR No.7818 of 2023 (O&M)  
Date of decision: 25.03.2025

Shivsher Singh

...Petitioner

V/s

Hardev Singh (deceased) through LR and another

...Respondents

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Atul Goyal, Advocate, for the petitioner.  
Mr. Namit Gautam, Advocate, for respondent No.1.

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**VIKRAM AGGARWAL, J (ORAL)**

The present revision petition is directed against the order dated 06.12.2023 (Annexure P-9) passed by the Court of learned Civil Judge (Jr. Divn.), Ludhiana, vide which the application filed by the petitioner-defendant under Order VI Rule 17 CPC of the Code of Civil Procedure, 1908 (for short the "CPC") for amendment of written statement was declined.

2. The facts, as emanating from the revision petition, are that respondent No.1-plaintiff (Hardev Singh) filed two civil suits (Annexures P-2 and P-3) for recovery on 22.07.2013. The first suit bearing No.50835 was for recovery of Rs.23,00,000/-, whereas the second suit bearing No.50836 was for Rs.72,45,000/-. Written statements (Annexures P-4 and P-5) in both suits were filed on 28.07.2014. During the pendency of the suits and in fact at the stage of final arguments, an application (Annexure P-7) was moved by the petitioner-defendant under Order VI Rule 17 CPC for amendment of the



written statement praying that the plea of the second suit being barred by the principles of Order 2 Rule 2 CPC be permitted to be incorporated. The said application was opposed by way of reply (Annexure P-8). By way of the impugned order dated 06.12.2023, the said application was dismissed leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner has strenuously urged that the amendment sought was formal in nature pursuant to which no evidence was required to be led and, therefore, the trial Court erred in dismissing the same. He submits that though the trial Court held that the said objection or the said argument would be covered under the issue of maintainability at a subsequent stage, however, an objection may be raised at a later stage as to the non-raising of the said objection in the written statement. He submits that under the circumstances, the trial Court should have allowed the application.

5. *Per contra*, learned counsel for respondent No.1-plaintiff submits that there is no illegality in the order passed by the learned trial Court, for, there was an issue of maintainability already framed and this objection could have been raised at the time of arguments. He submits that this finding was recorded by the learned trial Court as well. Learned counsel submits that the only endeavour of the petitioner in filing the application was to delay the proceedings. Learned counsel further submits that to raise such an objection, no amendment in the pleadings would even otherwise be required. In support of his contention, he relies upon a judgment of a coordinate Bench of this Court in the case of **Jagpal Singh through his LRs vs. Sarabjit Singh and others**, Law Finder Doc Id # 2141651.



6. Having considered the submissions made by learned counsel for the parties, this Court finds that there is no illegality in the impugned order.

7. Admittedly, both suits were filed on the same date i.e. 22.07.2013 and the written statements were also filed on the same date i.e. 28.07.2014. Be that as it may, the issue of the second suit being barred by the provisions of Order 2 Rule 2 CPC could always be raised under the issue of maintainability which had already been framed in the said matter. The trial Court while deciding the application duly stated that no prejudice would be caused to the applicant-defendant on account of the dismissal of the application for amendment as the question of applicability of Order 2 Rule 2 CPC could be decided at the time of final adjudication of the civil suits. Even otherwise, the application was filed at the fag end of the suits when the matter was fixed for arguments. Notably, the suits were filed in 2013 and the written statements were filed in 2014, whereas the application was filed on 17.11.2023. The apprehension expressed by learned counsel for the petitioner that subsequently an objection could be raised that a specific objection in the written statement as regards the suit being barred by the provisions of Order 2 Rule 2 CPC not was not raised is also unfounded, for, the trial Court has already stated that the said objection can be raised under the issue of maintainability.

8. Still further, a coordinate Bench while deciding a civil revision petition in the case of **Jagpal Singh** (supra), categorically held that an objection under Order 2 Rule 2 CPC, which is a legal objection and can be raised at any stage and no amendment of written statement to incorporate the said objection would be required.



9. This Court is in respectful agreement with the said view taken by the coordinate Bench, which also puts at rest the apprehension expressed by learned counsel for the petitioner.

10. That being so, I find no merit in the present revision petition and the same is accordingly dismissed.

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

**(VIKRAM AGGARWAL)**  
**JUDGE**

**March 25, 2025**

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No