**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****136****CR-5654-2016 (O&M)****Date of decision: 22.04.2026****Rameshwar****...Petitioner(s)****Vs.****Savitri****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. S.P.Arora, Advocate
for the petitioner.

Mr. Pankaj Bali, Advocate
for the respondent.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the plaintiff laying challenged to the order dated 12.07.2016 (Annexure P-5) passed by learned Civil Judge (Junior Division), Sonapat; whereby application filed by the petitioner/plaintiff for amendment of plaint under Order 6 Rule 17 CPC and under Order 1 Rule 10 CPC, has been dismissed.

2. Brief facts of the case in chronological order are as follows: -

24.01.1977: Vide original allotment, Gram Panchayat, Murthal allotted plot No. 211/16/26 (100 sq. yds) to the Petitioner via Gift Deed No. 9059.



07.03.1995: Alleged oral Sale Deed was executed in favor of Respondent No. 1 for Rs.20,000. Petitioner alleged that signatures were obtained on blank papers while he was intoxicated during his daughter's wedding.

04.03.2005: Respondent No. 1 filed Civil Suit No. 441/2005 for permanent injunction based on the Oral Sale Deed dated 07.03.1995.

31.07.2008: Learned Civil Judge dismissed suit of the respondent No. 1 and findings were returned in favor of the Petitioner.

17.04.2010: However, Additional District Judge allowed the appeal of Respondent No. 1, while upholding the oral Sale Deed dated 07.03.1995.

30.04.2010: The petitioner challenged the above said judgment and decree of the learned ADJ before this Court by way of RSA-1694-2010; which came to be dismissed vide order dated 30.4.2010.

20.08.2010: The said judgment dated 30.4.2010 was challenged by the petitioner before the Hon'ble Supreme Court by way of SLP No. 22642/2010. Vide order dated 20.08.2010 (Annexure P-2), the operation of the impugned judgment dated 30.4.2010, was stayed by the Hon'ble Supreme Court.

27.04.2011: On 27.04.2011, Mutation (Intkal) No. 12568 was sanctioned in favour of respondent No.1 while the Supreme Court stay order was in active operation.

12.04.2012: Vide order dated 12.04.2012, SLP No. 22642/2010 was dismissed while granting liberty to the petitioner to exhaust the remedies in accordance with law.



16.04.2012: Petitioner/plaintiff then filed instant Civil Suit dated 16.04.2012 (Annexure P-1) for declaration and cancellation of oral Sale Deed dated 07.03.1995, and permanent injunction.

29.05.2013: Petitioner obtained a computer-generated jamabandi revealing Mutation No. 12568. The entry was found to be "crossed and cancelled" by the Patwari.

31.05.2013: Petitioner filed an application for correction of revenue records with the Tehsildar vide Diary No. 4020, dated 03.06.2013.

21.09.2015: Petitioner submitted a formal reminder (Diary No. 3002) to the Tehsildar regarding the pending correction.

15.12.2015: On 15.12.2015, issues were framed.

05.04.2016: As no action was taken by the revenue authorities in the application for correction submitted by the petitioner, Petitioner moved instant application (Annexure P-3) under Order 6 Rule 17 CPC and Order 1 Rule 10 CPC.

28.04.2016: Respondent/defendant had filed reply dated 28.04.2016 (Annexure P-4) to the above said applications.

12.07.2016: Vide the impugned order dated 12.07.2016, the said applications of the petitioner have been dismissed.

3. Hence, present Revision Petition.

4. It is *inter alia* submitted by learned counsel for the petitioner that impugned applications were necessitated on account of the fact that vide order dated 20.08.2010 (Annexure P-2), the Hon'ble Supreme Court had directed stay of the operation of the impugned judgment.



However, during the pendency of the said stay granted by Hon'ble Supreme Court, respondent had got sanctioned the impugned mutation. It is submitted that without appreciating the fact that the applications (Annexure P-3) of the petitioner was necessitated due to the subsequent events which are essential for the proper adjudication of the issue at hand, the learned Trial Court has mechanically dismissed the applications vide impugned order on the ground that said applications have been filed after commencement of trial and that the petitioner had failed to make out due diligence. Learned counsel submits that said reasoning of the learned Trial Court is without basis and based on a mis-appreciation of the matter.

5. Learned counsel for the petitioner further submits that in actual fact, the said act of the respondent in getting sanctioned the Mutation dated 27.04.2011 during the subsistence of the order of Hon'ble Supreme Court, amounts to Contempt of Court.

6. Hence, it is accordingly prayed that the present Revision Petition be allowed; and the impugned order be set aside.

7. *Per contra*, learned counsel for the respondent vehemently opposes submissions advanced on behalf of the petitioner and submits that issues in the present case were framed on 15.12.2015; whereas the present application has been filed by the petitioner thereafter on 05.04.2016. It is submitted that it is established position in law that amendment cannot be sought after trial has begun. As such, the



impugned order suffers from no error and the present Revision Petition deserves to be dismissed.

8. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of the petitioner.

9. Perusal of the impugned order shows that learned Civil Judge has dismissed the applications of the petitioner primarily on account of the following 3 reasons that: (a) *"In the plaint itself, the plaintiff has not talked about the disputed mutation No. 12568 in favour of the defendant"*; (b) plaintiff has failed to prove *"any particular date of knowledge....."*, therefore, bonafide intention of the petitioner is not clear; and that (c) *"The present application has been moved on 05.04.2016 after a lapse of considerable time from the date of framing of issues."*

10. The first objection taken by learned Trial Court as also the respondent/defendant to the present application, is that the petitioner has not mentioned the impugned Mutation No. 12568 dated 27.04.2011 in his plaint. However, perusal of the instant application dated 05.04.2016 (Annexure P-3) filed by the petitioner shows that petitioner has categorically stated therein that impugned Mutation No. 12568 dated 27.04.2011 came to the knowledge of the petitioner only after filing of the present suit on 16.04.2012. Thus, Petitioner could not have disclosed about the impugned Mutation in the plaint as, he has discovered about the same only after filing of the suit. Petitioner has



further stated in the instant application that after discovering about the said Mutation no.12568, Petitioner has approached the concerned revenue officers vide formal correction application on 31.05.2013 (Diary No. 4020) and a final reminder on 21.09.2015 (Diary No. 3002) before seeking this amendment. Thus, the averment of the petitioner that he has discovered about the impugned mutation only after filing of suit is further substantiated from the above facts stated in the application.

11. Further, it is not disputed by learned counsel for the respondent that Hon'ble Supreme Court vide order dated 20.08.2010 (Annexure P-2) passed in **Special Leave to Appeal (Civil) Nos. 22642/2010 titled as Rameshwar vs. Savitri** had categorically directed that *"Meanwhile there will be stay of operation of impugned judgment."* Admittedly, the said Mutation No. 12568 has been sanctioned on 27.04.2011 i.e. during the subsistence of the stay granted by Hon'ble Supreme Court. Thus, this administrative act was performed by the revenue authorities in blatant violation of a Supreme Court stay order dated 20.08.2010 which was in active operation at the time. Any entry made in direct defiance of a stay from the Apex Court is void ab initio and a nullity in the eyes of law; therefore, incorporating this challenge is essential not only to protect the sanctity of judicial orders; but also to bring on record pertinent subsequent events which had transpired and which were germane to the issue at hand.

12. Second reasoning of learned Civil Judge that petitioner has failed to disclose and prove the exact date of knowledge, is not sufficient



ground to reject the application; especially as it is not disputed that impugned Mutation has been sanctioned during the subsistence of subsequent order of Hon'ble Supreme Court. Perusal of Annexure P-3 further reveals that petitioner has specifically mentioned therein that he discovered about the mutation in May 2013; and after discovering regarding the Mutation, the petitioner has made a formal correction application on 31.05.2013 (Diary No. 4020) and a final reminder on 21.09.2015 (Diary No. 3002) to the concerned revenue authorities before seeking this amendment.

13. It is the case of the petitioner that he discovered about the mutation entry in May 2013 through a computer-generated jamabandi. It is also the case of the petitioner that he was initially misled by the Halka Patwari, who represented the entry as a mere "computer network error". This necessitated the filing of the application under Order 1 Rule 10 CPC, to implead the State of Haryana, the Tehsildar, and the Halka Patwari being necessary parties to this litigation. I find merit in the contention of the petitioner that a decree against a private individual alone cannot compel the Revenue Department to restore public records. Their presence is essential for the Court to grant the relief of restoring the revenue records to their original condition and to ensure a complete and effective adjudication of the dispute.

14. The third reasoning of the learned Trial Court that application has been moved on 05.04.2016 "*After lapse of consideration time from the date of framing of issues*" is also misconceived as admittedly, issues



were framed barely 3 months previously on 15.12.2015. Further, as evident from the facts noted above, far from being negligent, the Petitioner spent 2013 through 2015 pursuing administrative remedies.

15. It is also relevant to note that the proposed amendment does not alter the basic structure or cause of action of the suit. The primary dispute remains the ownership of the property based on the 1977 Gift Deed versus the forged 1995 Sale Deed. The challenge to the mutation is a consequential and formal amendment necessitated by subsequent events discovered during the pendency of the suit, which provides a complete perspective of the dispute to the Trial Court. In passing the impugned order, the Trial Court failed to apply the settled law in **Sampath Kumar v. Ayyakannu, (S.C.) : Law Finder Doc Id # 2224** which dictates that amendments based on subsequent events should be allowed liberally. Since the Respondent retains the right to file a rebuttal and any perceived delay can be compensated by costs, there is no "grave prejudice" caused to the defense. Denying the amendment would lead to a multiplicity of litigation, which the law explicitly seeks to avoid.

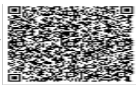
16. Further, the said amendment and impleadment is necessary to determine the real controversy at hand. In **Rajesh Kumar Aggarwal v. K.K. Modi, (SC) : Law Finder Doc Id # 120400**, the Hon'ble Supreme Court has specifically directed that *"Amendment of pleadings - It is mandatory on court to allow all amendments which are necessary for the purpose of determining the real questions in controversy between the parties."*



It is further held that: –

“16. As discussed above, the real controversy test is the basic or cardinal test and it is the primary duty of the Court to decide whether such an amendment is necessary to decide the real dispute between the parties. If it is, the amendment will be allowed; if it is not, the amendment will be refused. On the contrary, the learned Judges of the High Court without deciding whether such an amendment is necessary has expressed certain opinion and entered into a discussion on merits of the amendment. In cases like this, the Court should also take notice of subsequent events in order to shorten the litigation, to preserve and safeguard rights of both parties and to sub-serve the ends of justice. It is settled by catena of decisions of this Court that the rule of amendment is essentially a rule of justice, equity and good conscience and the power of amendment should be exercised in the larger interest of doing full and complete justice to the parties before the Court.”
(emphasis supplied)

17. The application P-3 shows that petitioner has expanded upon and clarified regarding facts which are related to the dispute between the parties. In this regard reference is also be made to judgments of this Court in **Shri Sanatan Dharam Sabha v. Sita Devi (P&H) : Law Finder Doc Id # 1713347; CR-5151-2019 (O&M) titled as “Shri Sanatan Dharam Sabha (Registered) Gaushala Bazar Hoshiarpur Vs. Sita Devi”; CR-5163-2019 (O&M) titled as “Shri Sanatan Dharam Sabha (Registered) Gaushala Bazar Hoshiarpur Vs. Gulwinder Singh” and CR-5168-2019 (O&M) titled as “Shri Sanatan Dharam Sabha (Registered) Gaushala Bazar Hoshiarpur Vs. Gulwinder Singh”**



18. As such, in view of the discussion hereinabove, this Revision Petition is **allowed**; and impugned order dated 12.07.2016 (Annexure P-5) is set aside and the petitioner is permitted to amend his plaint and implead the proposed defendants.

19. It is trite law that it is not open for this Court to go into the merits of the amendments sought to be brought about by the petitioner, which will be considered by the learned Trial Court. Hence, anything stated hereinabove shall not be construed as an expression of opinion on the merits of the matter.

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

22.04.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No