



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

Civil Revision No. 6466 of 2015 (O&M)

Date of Decision: 07.04.2026

Moti Lal

..... Petitioner

Versus

Rajeev Marwaha and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Santosh Sharma, Advocate
for the petitioner-plaintiff.

Mr. Amit Chaudhary, Advocate
for respondent No. 1 (through video-conferencing)

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to an order dated 26.08.2015 passed by the Court of learned Civil Judge (Junior Division), Ludhiana, whereby an application filed on behalf of the petitioner-plaintiff seeking amendment of the plaint stands declined.

[2] Briefly stating, an agreement to sell dated 10.10.2008 was entered into between the petitioner/plaintiff-vendee and the respondents-defendants/vendors with respect to a plot measuring 544 square yards situated at Sherpur Kalan, Beantpura, Street No. 6, Ludhiana. As per the agreement to sell, the target date for execution of the sale deed was fixed as 10.06.2009, and a sum of Rs. 1 lakh was paid as earnest money against the total sale consideration of Rs. 15 lakhs. On 20.04.2013, the petitioner-plaintiff filed a suit for permanent injunction with a prayer for restraining

the respondents from alienating the suit property. The relevant averments made in paras-8 to 10 of the plaint are extracted hereunder:-

“ 8. That on 2.7.2009 i.e. after the date fixed for execution and registration of the sale deed, one of the daughter/legal heirs of Late Shri Krishan Lal namely Mrs. Monika Sabharwal w/o Shri Adheer Paul Sabharwal resident of 630, Brookwood Circle, Ottawa, ONT, K2J 0N6, Canada received sum of Rs.1,00,000/- from the plaintiff as earnest money out of the total sale consideration of Rs.15,00,000/- and after adjusting the earnest money of Rs.1,00,000/- paid to the defendants and Rs.1,00,000/- paid to Mrs. Monika Sabharwal, the plaintiff was to pay the balance sale consideration of Rs.13,00,000/-. The plaintiff has been hectically approaching the defendants with a request to receive the balance sale consideration amount and to execute & register the sale deed in his favour but the defendant always postponed the matter on one of the other false excuses and till date, they have not performed their part of the contract, though the plaintiff is ready and willing to perform his part of the contract since the date of agreement.

9. That yesterday the defendants were found contacting some prospective buyers and on inquiry by the plaintiff, it came to his notice that the defendants are going to alienate the suit property to some third person by ignoring the valuable rights of the plaintiff in the suit property on the basis of agreement to sell dated 10.10.2008. The plaintiff requested the defendants not to alienate any part of the suit property and not to transfer the same in favour of any third person but the defendants did not agree and rather made it clear to the plaintiff that in case the plaintiff wants to get the sale deed executed and registered in his favour from them, then the plaintiff will have to pay an additional amount as per their convenience. The plaintiff told the defendants that they have no right to demand any additional amount and

rather they are bound to perform their part of the contract and to execute and register the sale deed of suit property in terms agreement to sell but the defendants flatly refused to accede to the genuine request of the plaintiff and rather threatened to materialize his threats as and when they will get suitable opportunity. The defendants have no right to do any such act detrimental to the interest of the plaintiff and in case, the defendants succeed in implementing their sinister designs, then the plaintiff will suffer an irreparable loss and injury, which cannot be compensated in terms of money and the very purpose of filing the suit shall be defeated. This denial and threatened act on the part of the defendants has given a cause of action to the plaintiff to file the present suit.

10. That cause of action accrued to the plaintiff against the defendants, when the defendants being partners entered into an agreement to sell in favour of the plaintiff in regard to the suit property and received the earnest money and when the defendants were requested by the plaintiff to perform their part of the contract and when the plaintiff appeared before the office of Sub Registrar and sworn an affidavit dated 10.6.2009 in lieu of his presence, readiness and willingness to perform his part of the contract and on 2.7.2009 when Mrs. Monika Sabharwal being one of the legal heirs of Late Shri Krishan Lal received earnest money out of balance sale consideration and thereafter on each day when the defendants were requested by the plaintiff to perform their part of the contract and to execute and register the sale deed and yesterday when the defendants were found contacting the prospective buyers in order to cause injure to the lawful rights of the plaintiff and when the defendants threatened to alienate and transfer the suit property and when the defendants flatly refused to accede to the genuine request of the plaintiff. Cause of action is still continuing as the threats posed by the defendants have not been withdrawn so far.”

[3] The aforesaid suit was contested by the respondents-defendants, followed by framing of issues. At the stage of recording of plaintiff's evidence, the petitioner-plaintiff moved an application seeking amendment of plaint with the prayer for seeking the relief of possession by way of specific performance. The said application was opposed at the hands of respondents-defendants. The learned trial Court vide order dated 26.08.2015 dismissed the prayer made on behalf of the petitioner-plaintiff while declining the application for amendment of plaint.

[4] I have heard learned counsel for the parties and gone through the paper-book.

[5] In view of the settled position of law, the Courts generally refuse to permit amendments to pleadings when such amendments seek to introduce a fresh cause of action which would be barred by limitation if filed as a new suit. Allowing such amendments would unjustly deprive the defendant of a valuable right accrued under the law of limitation. Once, the period of limitation has run its course, the defendant acquires a vested right which ordinarily cannot be taken away by permitting an amendment. The amendments are permissible to cure defects or to clarify existing pleadings, but not to substitute or introduce an entirely new cause of action not originally pleaded. The Courts also consider whether the amendment is sought in good faith and any unexplained delay or lack of *bona fides* weighs against granting leave. If the limitation issue is arguable, the Courts may exercise its discretion based on the facts and circumstances of the case. However, where the bar of limitation is

apparent on the face of the record, amendments are refused. Further, a suit for specific performance must be filed within a period of three years from the date on which limitation begins to run. Any amendment seeking to introduce the relief of the specific performance after expiry of the said period, especially when the original suit was confined to a relief of injunction, is impermissible. The amendments that effectively extend the period of limitation or alter the nature and cause of action after the statutory period has lapsed are unsustainable. The Courts consistently uphold the principle that rights accrued under the law of limitation cannot be defeated by way of amendment, unless exceptional circumstances justify departure.

[6] In the given facts and circumstances, the agreement to sell between the parties was executed on 10.10.2008 with target date as 10.06.2009. Admittedly, the suit for permanent injunction was filed on 20.04.2013 i.e. much beyond three years of the target date. Thus, evidently the limitation for filing a suit for possession by way of specific performance as stipulated under Article 54 of the Schedule-I of the Limitation Act, 1963 (i.e. three years from the date fixed for performance of the agreement) was already over, especially when there were specific averments in the original plaint filed by the petitioner that the defendants-respondents were in touch with the prospective buyers so as to alienate the subject property.

[7] The submission made on behalf of the petitioner to the effect that the suit for specific performance was to be filed only after entering of

mutation of the subject property in favour of defendants is neither borne out from the averments made in the original plaint filed on 20.04.2013 nor even from the application filed for amendment of plaint. Pertinently, the only plea raised in the application was that the relief of possession by way of specific performance could not be claimed in the original plaint due to inadvertence and oversight. Be that as it may, it was never brought on record by the petitioner-plaintiff that any mutation proceedings with respect to the suit property were ever filed, pending or decided.

[8] Furthermore, another contention raised on behalf of the petitioner is that by virtue of a writing dated 07.07.2009 (placed on record as Annexure P-6), one of the vendors i.e. respondent no. 1-Rajiv Marwaha, had extended the time for execution and registration of sale deed till the decision of the mutation proceedings with respect to the subject property. However, a perusal of the plaint relating to the suit for permanent injunction filed on 20.04.2013 as well as the application filed on behalf of the petitioner-plaintiff seeking amendment of plaint, nowhere reflect even a whisper about the existence of any such writing dated 07.07.2009 executed by respondent No. 1-defendant No. 1 in his favour. In such circumstances, no such document can be considered to be of any help to the cause of the petitioner-plaintiff. Moreover, this document was never pressed before the learned trial Court at the time of filing of application seeking amendment of plaint. In such circumstances, it is evident from the pleadings made in the suit for permanent injunction filed on 20.04.2013 that the cause of action for filing suit for possession by

way of specific performance was already available to the petitioner-plaintiff on the said date and thus having failed to press for the said relief at the appropriate stage, the petitioner could not be permitted to introduce the same by way of amendment at this belated stage, that too when the claim was apparently barred by limitation.

[9] Also, no plausible or justified reason was expressed by the petitioner in his application for having failed to claim the relief of possession by way of specific performance at the initial stage of filing the suit for permanent injunction on 20.04.2013 and praying for same, much after the commencement of trial.

[10] In view of the aforesaid discussion, finding no illegality or perversity with the well-reasoned order passed by the learned trial Court; the present petition being devoid of merits, is hereby **dismissed**.

[11] Pending miscellaneous application(s), if any, shall also stand disposed off.

April 07, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>