



CR No.613 of 2018

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

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Civil Revision No.613 of 2018
Date of decision: April 23rd, 2026

Brahmanand and another

.....Petitioners

Versus

Sushil Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rakesh Gupta, Advocate (through V.C.)
and Ms. Chhavi Budhiraja, Advocate
for the petitioners.

Mr. B.S. Beniwal and Ms. Suman Beniwal, Advocates
for respondent No.1.

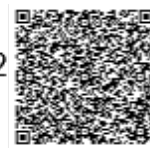
VIKAS BAHL, J. (ORAL)

CHALLENGE IN THE PRESENT PETITION:

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 12.01.2018 (Annexure P-1) passed by Additional Civil Judge (Senior Division), Fatehabad, vide which the application filed by respondent No.1/plaintiff for amendment of plaint has been allowed.

ARGUMENTS ON BEHALF OF THE PETITIONERS:

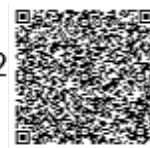
2. Learned counsel for the petitioners has submitted that in the present case, the allotment was made in favour of defendants No.1 and 2 on 06.03.2015 and respondent No.1/plaintiff had filed an application on 15.03.2016 before the Sub Registrar and District Collector, Fatehabad, requesting them not to allot and register the plot in favour of defendants No.1 and 2 and thereafter filed suit on 21.03.2016. It is submitted that respondent No.1 had knowledge of the allotment dated 06.03.2015 but did

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not challenge the same at the time of filing the suit and even subsequently when the order dated 09.02.2017 was passed dismissing the plaintiff's application under Order XXXIX Rules 1 and 2 and the application for amendment was filed only on 09.01.2018 after much delay, after the evidence of the plaintiff had been closed. It is submitted that the amendment application has been allowed in spite of the fact that there was no due diligence on the part of respondent No.1/plaintiff. It is argued that thus the impugned order is illegal and deserves to be set aside and the application filed by respondent No.1/plaintiff for amendment deserves to be dismissed.

ARGUMENTS ON BEHALF OF RESPONDENT NO.1/PLAINTIFF:

3. Learned counsel for contesting respondent No.1, who is the plaintiff in the case, has submitted that in the present case, respondent No.1/plaintiff was not aware of the allotment in favour of defendants No.1 and 2 as the plaintiff was not a party to the said allotment and the said fact is apparent from the fact that even in the application dated 15.03.2016, the plaintiff had requested the competent authority not to allot or register the plot in favour of defendants No.1 and 2 and in case respondent No.1 was aware of the allotment, then, a prayer would have been made by respondent No.1 for cancellation of the said allotment. It is submitted that on the date of filing of the suit, respondent No.1 was not aware about the said allotment and it was only subsequently that he learnt about the same and accordingly moved an application for amendment of the plaint. It is submitted that the said amendment is very necessary for the proper and final adjudication of the case as the allotment pertains to the property which is the subject matter of the suit, regarding which respondent No.1/plaintiff has sought declaration



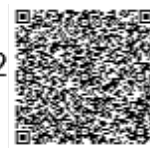
as well as the relief of injunction.

ANALYSIS AND FINDINGS:

4. This Court has heard learned counsel for the petitioners as well as the counsel for contesting respondent No.1/plaintiff and is of the opinion that the order passed by the trial Court is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

5. Respondent No.1/plaintiff had filed a suit for declaration. The headnote of the said suit is reproduced hereinbelow:

“Suit for declaration to the effect that the plaintiff is entitled to get transfer the ownership and allotment of plot No.94 measuring 45 Feet X 100 Feet in Khasra No.758 Min Mauja Bhirdana, Tehsil and District Fatehabad in his name from the defendants No.3 to 8 and adjoining space and public street as shown in the site plan attached hereby letters ABCD situated in Second Abadi Bhakhra Dam oustees Khasra No.758, on the basis of agenda No.8 dated 06.01.2008 passed by the defendant No.3 in favour of the plaintiff with the application No.16, which was forwarded by the defendant No.3 to the Deputy Commissioner, Resettlement Hisar on 24.01.2008 in favour of the plaintiff for the allotment of the above said plot No.94 situated in Khasra No.758 and further suit for permanent injunction thereby restraining the defendants No.4 to 8 from allotting and transferring the aforesaid plot in favour of the defendants No.1 and 2 in collusion with each other and defendant No.4. On the basis of oral and documentary evidence of every description.”

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6. A perusal of the above headnote would show that declaration was sought by the plaintiff with respect to plot No.94 on the basis of his rights and also on the basis of resolution No.8 dated 06.01.2008. A prayer was made for restraining defendants No.4 to 8 from allotting and transferring the aforesaid plot in favour of defendants No.1 and 2 in collusion with each other and defendant No.4. It was further pleaded in the plaint, which has been annexed as Annexure P-4 along with the present petition, that the Haryana Government in order to resettle the Bhakra Dam oustees had acquired land situated in Mauja Bhardana, Tehsil and District Fatehabad and that the plaintiff was also an oustee and on 06.01.2008, defendant No.3 along with other executive body members had passed a resolution/agenda No.8 with respect to allotment of the said plots. It was the case of the plaintiff that he had also applied for plot No.94 vide application No.16 which had been forwarded to the Deputy Commissioner, Resettlement, Hisar. The apprehension of the plaintiff to the effect that the said plot would be allotted to defendants No.1 and 2 was also mentioned to in the plaint. From the pleadings in the plaint, it is apparent that the dispute is with respect to plot No.94, regarding which apparently the plaintiff was not aware on the date of the filing of the suit that an allotment in favour of defendants No.1 and 2 had been made on 06.03.2015.

7. Respondent No.1/plaintiff on 09.01.2018 moved an application under Order VI Rule 17 read with Section 151 CPC for amendment in the plaint to the effect that he wishes to challenge the allotment order dated 06.03.2015 with respect to plot No.94 in favour of defendants No.1 and 2 and thus wanted to make necessary additions including the additions in the

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prayer clause and the headnote. It was stated that the said amendment was very necessary for the proper and final adjudication of the case and that the plaintiff did not have knowledge about the said allotment order dated 06.03.2015 at the time of filing of the suit and that the said fact was also apparent from the application dated 15.03.2016 moved by the plaintiff to the higher authorities in which also a prayer was made that the plot be not allotted to defendants No.1 and 2.

8. By virtue of the amendment, challenge to order dated 06.03.2015 with respect to plot No.94 was sought. The said amendment is necessary for the proper and final adjudication of the case. It is not in dispute that the plaintiff was not a party to the allotment dated 06.03.2015 which was in favour of defendants No.1 and 2 and it is for the said reason that the plaintiff could not challenge the said allotment at the time of filing the suit. Once the suit which has been filed is with respect to the rights of the parties qua plot No.94, then, it becomes necessary for the plaintiff to challenge the allotment dated 06.03.2015 qua the said plot. The trial Court by virtue of the impugned order has thus rightly allowed the plaintiff to carry out the necessary amendment and it has rightly been observed that the nature of the suit would not be changed as the dispute would remain with respect to plot No.94.

9. It is a matter of settled law that at the time of deciding an application for amendment under Order 6 Rule 17 CPC, the Court is not required to adjudicate the plea proposed and is primarily required to consider as to whether the amendments are necessary for determining the real question in controversy. Reference in this regard can be made to the



judgment of the Hon'ble Supreme Court of India in the case of **Rajesh Kumar Aggarwal & Ors. vs. K.K. Modi & Ors.** reported as **2006(2) RCR (Civil) 577**. The relevant portion of the said judgment is reproduced hereinbelow:-

13. The object of the rule is that Courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.

XXX XXX XXX

17. While considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. This cardinal principle has not been followed by the High Court in the instant case.

XXX XXX XXX

*Since the Court has entered into a discussion into the correctness or falsity of the case in the amendment, we have no other option but to interfere with the order passed by the High Court. Since it is settled law that the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing prayer for amendment, the order passed by the High Court is not sustainable in law as observed by this Court in **Sampath Kumar vs. Avvakannu and Another, (2002) 7 SCC 559**.*



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is necessary for the proper and final adjudication of the case. Further, a coordinate Bench of this Court in its judgment dated 19.04.2017 passed in **CR-7797-2014** titled as ***Manohar Lal Versus Jai Parkash*** had allowed the amendment at the stage of rebuttal evidence /arguments. While allowing the said amendment, it was observed by the Coordinate Bench of this Court that it was a settled principle of law that under Order 6 Rule 17 CPC, the amendment is to be allowed where it is necessary for the purpose of determining the real question in controversy between the parties and that the rules of procedure are hand-maid of justice and technicalities are not to come in the way and the Courts are to adjudicate the case on the merits of the dispute.

11. In the present case, it would be additionally relevant to note that after the filing of the present revision petition, since the proceedings had not been stayed, on 01.02.2018, the amended plaint had been filed in pursuance of the impugned order and thereafter vide order dated 10.07.2018, even the additional issue with respect to the order dated 06.03.2015 had been framed.

The order dated 10.07.2018 is reproduced hereinbelow:

*“Present: Sh.P.K.Jindal, Advocate for the plaintiff.
Sh.C.L.Narang, Advocate for defendants No.1 and 2.
Sh. Kaushal Mehta, Advocate for defendant No.3.
Sh.K.K.Jangra, Advocate for defendant No.4.
Sh. Naresh Kumar, G.P for defendants No.5 to 8.
assisted by (Sh.Pankaj Bansal, Advocate for defendant No.6.)*

Matter considered. From the amended pleadings of the parties, following additional issues is hereby framed under issue No.1-A.

1-A: Wheather the impugned order dated 06.03.2015



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for allotment of plot No.94 in favour of defendants No.1 and 2 is liable to be set aside on the grounds as mentioned in the plaint?OPP

Learned counsel for the plaintiff has stated at bar that he wanted to lead evidence qua the above issue. Adjournment sought. Heard. Allowed. Now, to come up on 26.07.2018, for evidence of plaintiff only qua the additional issues.

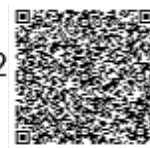
*(Jatin Garg),
ACJ(SD), Fatehabad.
UID No.HR-0278”*

12. It is also apparent that the case is now fixed for evidence of the plaintiff as per the zimni orders which have been handed over by the counsel appearing for respondent No.1/plaintiff during the course of arguments. The zimni order dated 18.11.2025 would show that Om Parkash one of the plaintiff witness was present but the case was adjourned on the request of counsel for the defendant/petitioners. The said zimni order is reproduced hereinbelow:

*“Present: Sh. P.K. Jindal, Advocate for plaintiff.
Sh. C.L.. Narang, Advocate for Lrs of defendant No.1 and Lrs of defendant No.2
Sh. Kaushal Mehta, Advocate for defendant No.3.
Sh. K.K. Jangra, Advocate for defendant No.4.
Ld. GP for defendants No.5 to 8 assisted by Sh. Pankaj Bansal, Advocate for defendant No.6.*

Previous cost not paid. Same be paid on next date of hearing.

Deferred witness Om Parkash is present but could not examined on request of defence counsel. The said



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witness is discharged for today and bound down on next date of hearing.

No other PW is present. Adjournment sought.

Heard. Allowed. Now, to come up on 06.01.2026 for cross-examination of witness Omparkash as well as for remaining plaintiff evidence at own responsibility. Last opportunity is extended for this purpose.

*Vinti
ACJ(SD) cum JMIC,
Fatehabad, UID No.HR0405
18.11.2025”*

13. On 06.01.2026, the said Om Parkash was examined as PW-3 and the case is now pending for 07.05.2026 for the remaining plaintiff evidence.

14. The Hon'ble Supreme Court in the case of ***Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*** reported as ***(2010) 8 Supreme Court Cases 329***, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference



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under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

15. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

16. It would be relevant to note that the observations made in the present order are only for considering the legality or otherwise of the impugned order vide which the application under Order VI Rule 17 CPC filed by respondent No.1 has been allowed and the same should not be construed as an expression on the merits of the main case and the trial Court would decide the main case in accordance with law, after hearing all the parties concerned.

April 23rd, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes