

2026:PHHC:044517



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

**CR-1505-2026**

**Judgment reserved on 10.03.2026**

**Judgment pronounced on 18.03.2026**

**KEWAL KRISHAN AND ANR**

**... PETITIONERS**

**VERSUS**

**AJAY KUMAR NARULA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Viren Jain, Advocate and  
Ms. Shruti Mehta, Advocate  
for the petitioners.

Ms. Divya Sharma, Senior Advocate with  
Ms. Yashika Chauhan, Advocate and  
Ms. Kashika Maheswary, Advocate  
for the respondent.

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**PARMOD GOYAL, J.**

1. The present civil revision under Article 227 of the Constitution of India is preferred by petitioners—tenants being aggrieved by the impugned order dated 08.01.2026 (Annexure P-1) passed by the learned Additional District Judge, Ludhiana, whereby the application filed by the petitioners under Order VI Rule 17 CPC for amendment of the written statement has been dismissed.

2. Respondent, being the owner of the property, had sought a decree of mandatory injunction directing the defendants (petitioners herein) to vacate and hand over vacant physical possession to respondent of the part of property measuring 1657 sq. yards bearing House No. 213 of village Phullanwal as

described in the plaint. The said suit filed by the respondent was decreed vide

judgment and decree dated 06.09.2023 (Annexure P-6) passed by the learned Civil Judge (Junior Division), Ludhiana.

3. Against the said judgment and decree dated 06.09.2023, the petitioners had preferred Civil Appeal No. 902 of 2023 wherein petitioners—defendants had filed an application under Order VI Rule 17 CPC seeking amendment in the written statement for adding preliminary objection No. 6, however, the same was dismissed vide the impugned order dated 08.01.2026 (Annexure P-1).

4. The petitioners had sought amendment in the written statement and had sought incorporation of following plea as preliminary objection No. 6. Amendment sought by petitioners is reproduced as under:

*"6. That the appellants/ defendants had filed a civil suit titled as "Kewal Krishan Vs. Babu Ram" bearing civil suit No.1054 of 2015 for decree of perpetual injunction so as to protect their possession from the property consisting of shops, three rooms, shed meant for machinery and factory, hall meant for cattle and shed, another machinery hall and room with open space and passage having a temporary parking shed on the ground floor, kitchen, drawing room, two rooms, bathrooms, dining and lobby were under on the first floor and a room and kitchen and bathroom and terrace on the second floor. The said suit was filed on 10.03.2015 and the court had granted ex parte injunction in relation to the said property on 11.03.2015 and ultimately the suit was decreed on 06.09.2023. The site plan of the property subject matter of the said suit was proved as Ex.DW8/1. The said judgment decree has not been challenged by the defendants therein/plaintiffs herein. Even in the FIR/complaint dated 20.03.2015 Ex. P6, the plaintiffs herein/respondents had conceded to the possession of the property on the first and the second floor to be with the appellants. In the*

*present case, the decree mandatory injunction is only sought qua portion the ground floor only. When the appellants in possession of a much larger portion of the property than so pleaded in the plaint and shown in the site plan in the present case, the suit itself is bad for partial vacation of the property. Moreover, the suit for mandatory injunction itself was not maintainable."*

5. Admittedly, in the present case, the suit for mandatory injunction filed by respondent-plaintiff with a prayer for possession was filed on 30.05.2015. Facts sought to be incorporated by way of amendment in the written statement were within the knowledge of the petitioners for the last 10 years. It is further not in dispute that the defendants-petitioners had already taken a preliminary objection in the written statement to the effect that the suit is not maintainable, as the plaintiffs have no right to file a suit for grant of mandatory injunction. Issue No. 3 was also framed by the trial Court regarding the maintainability of the suit.

6. The learned Court below has, therefore, rightly concluded that the proposed amendment is already covered under the issue of maintainability. It has been correctly noticed that once a comprehensive issue regarding maintainability has been framed, no further amendment seeking to challenge the suit on the same ground is required.

7. Additionally, the learned First Appellate Court has rightly observed that after commencement of trial, an application under Order VI Rule 17 CPC cannot be allowed unless due diligence on the part of the party seeking amendment is established. In the present case, no explanation whatsoever has been furnished by the petitioners- defendants to justify the filing of the amendment application after a delay of 10 years, particularly when the grounds

sought to be introduced were already within their knowledge and had, in fact, been agitated since the year 2015. Therefore, the conclusion drawn by the learned First Appellate Court that the present application is a belated attempt, only with a view to delay the proceedings and to perpetuate possession despite a decree having been passed against the petitioners-defendants, is well-founded.

8. I do not find any error in the reasoning or the conclusion arrived at by the learned First Appellate Court. The issue regarding maintainability was very much within the knowledge of the petitioners-defendants from the very inception of the trial. In fact, the petitioners-defendants had already raised such an objection in their written statement, and a specific issue in this regard had also been framed. Both the parties were afforded adequate opportunity to lead evidence. However, the petitioners-defendants failed in the suit, which ultimately came to be decreed in favour of the respondent-plaintiff.

9. By way of the present amendment, the petitioners-defendants now seeking to introduce a plea that the suit is not maintainable on account of partial eviction. Such a plea was always available to them, yet no cogent reason has been furnished as to why it was not raised earlier over the last decade.

10. In these circumstances, when the petitioners-defendants have failed to demonstrate due diligence, the learned First Appellate Court has rightly rejected the attempt to amend the written statement at the appellate stage. Allowing such an amendment would result in reopening the entire case and lead to a re-trial, thereby defeating the judgment and decree already passed in favour of the respondent-plaintiff and causing further delay in a matter pending since 2015.

11.           Consequently, finding no merit in the present revision petition, the same is hereby dismissed.
12.           Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

18.03.2026  
manoj

(PARMOD GOYAL)  
JUDGE

Whether speaking/reasoned    Yes  
Whether reportable            Yes/No