

**CR No.448 of 2021****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Civil Revision No.448 of 2021

Date of decision: February 10th, 2026Jaswant Singh (since deceased) through his LR Gurdeep Singh through his
special attorney Kartar Singh

...Petitioner

Versus

Raghbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHLPresent: Mr. Gurcharan Dass, Advocate
for the petitioner.Mr. R.S. Randhawa, Senior Advocate
with Ms. Tarranum Madan, Advocate
for respondent No.1.**VIKAS BAHL, J. (ORAL)**

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 16.03.2020 passed by the Civil Judge (Junior Division), Jagraon, in Civil Suit No.157 dated 25.03.2015, whereby the application for amendment has been allowed.

ARGUMENTS ON BEHALF OF THE PETITIONER:

2. Learned counsel for the petitioner has submitted that in the present case, respondent No.1 had filed a suit for separate possession to the extent of 0 kanal 5 marlas 7 sarsahi being 13/90 shares by way of partition of the house/property measuring 2 kanals 0 marla shown in red and green colour which was stated to be comprised in Khewat/Khatauni No.172/183, Khasra No.368 (1-0), 369 (1-0) as entered in the jamabandi for the year 2007-2008, situated in the area of village Dangon (H.B. no. 352), Tehsil



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Raikot, District Ludhiana. It is submitted that in the written statement filed by the petitioner, it was specifically stated that the present case was a case of partial partition which was not maintainable as there were other joint properties which were comprised in Khasra No.370 as well as in Rectangle No.42 Killa No.14/2. It is submitted that respondent No.1 had filed an application under Order I Rule 10 CPC and another application under Order VI Rule 17 read with Section 151 CPC for impleading the parties and amendment of the plaint with respect to Khasra No.370 but in the said application for amendment has not included Rectangle No.42 Killa No.14/2 and thus even after the amendment has been allowed, the objection of the petitioner to the effect that the same would still remain a case of partial partition and the same would still be a ground to reject the suit. It is submitted that thus the applications deserve to be dismissed and the impugned order deserves to be set aside.

ARGUMENTS ON BEHALF OF RESPONDENT NO.1:

3. Learned senior counsel for respondent No.1, on the other hand, has submitted that it is the case of the plaintiff that the house in question is constructed on Khasra No.368 and 369 and also on Khasra No.370 and the suit has been filed for partition of the said house. It is submitted that the house is not constructed on Rectangle No.42 Killa No.14/2 and thus the plaintiff has not included the said rectangle number/killla number in the suit. It is further submitted that the amendment which has been allowed is necessary for proper adjudication of the case and it is a matter of settled law that at the time of deciding the application for amendment, the Court is not



required to go into the merits of the said amendment.

ANALYSIS AND FINDINGS:

4. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that the impugned order is in accordance with law and deserves to be upheld and the present revision petition deserves to be rejected.

5. It is not disputed that respondent No.1 had filed a suit for separate possession with respect to the land which was detailed in the headnote of the plaint. The relevant portion of the headnote is reproduced hereinbelow:

“Suit for separate possession to the extent of 0K-5M-7S being 13/90 shares by way of partition of the house/property measuring 2K-0M shown as Red & GREEN in the site plan attached with the plaint and bounded as under:-

North: Bahadur Singh

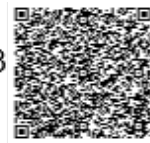
South: Harnek Singh

East: Drain

West: Road

comprising Khewat/Khatauni no. 172/183, Khasra no. 368 (1-0), 369 (1-0) as entered in the jamabandi for the year 2007-2008, situated in the area of village Dagon (H.B. no. 352), Tehsil Raikot, District Ludhiana.

And as a consequential relief suit for the grant of permanent injunction restraining the defendant from dispossessing the plaintiff from the portion shown as



GREEN in the site plan and also restraining the defendants from making the material changes in the disputed house/property by way of demolishing the old construction and raising the new construction illegally and forcibly, on the basis of oral and documentary evidence.”

A perusal of the above would show that it was the case of the plaintiff that the house in question was situated in Khasra Nos.368, 369.

6. In the written statement filed by the present petitioner/LR of defendant No.1 which has been annexed as Annexure P-3, in para 1 of the preliminary objections, the plea taken by the petitioner was that the present case is a case of partial partition and the parties have other joint properties which included the property in Khasra No.370 as well as in Rectangle No.42/Killa No.14/2. Respondent No.1 moved an application for amendment under Order 6 Rule 17 CPC as well as for the impleadment under Order I Rule 10 CPC with respect to the co-sharers in Khasra No.370. The said amendment has been allowed vide the impugned order dated 16.03.2020 subject to cost of ₹2,000/-.

7. It is not disputed before this Court that the amendment sought is necessary for the proper and final adjudication of the case. The sole argument raised before this Court by the petitioner is that Rectangle No.42 Killa No.14/2 should also be added as the same is also the joint property of the petitioner and respondent No.1 and the co-sharers of the same should also be impleaded as parties. The said aspect has been disputed on behalf of respondent No.1 and it has further been stated that the house in question is



not in the said rectangle/killla number. It is a matter of settled law that the merits of the amendment/case are not to be decided at the stage of allowing the amendment. 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. Ayyakannu and Another, (2002) 7 SCC 559.

8. In the present case, since the amendment, which is sought, is necessary, the trial Court has rightly allowed the said amendment. The question as to whether the plaintiff should have incorporated some other rectangle/killa number also in the suit is not the issue which is required to be decided by this Court while adjudicating upon an order allowing the amendment sought by respondent No.1/plaintiff. It would be open to both the parties to raise their respective pleas with respect to the inclusion/exclusion of the said rectangle/killa number during the course of trial. The petitioner would also get an opportunity to file an amended written statement and thus no prejudice would be caused to the petitioner.

9. 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 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.

10. 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.

February 10th, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes