



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-1092-2024
Date of decision : 24.02.2026

Baljinder Kaur and another

... Petitioners

Versus

Punjab State Power Corporation Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Mayank Mathur, Advocate
for the petitioners.

Ms.Harpriya Khaneka, Advocate
for respondents no.1 and 2 (through V.C.).

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 20.01.2024 (Annexure P-1), vide which the application for amendment filed by the petitioners /plaintiffs under Order 6 Rule 17 CPC for changing khasra number of bore of the electric tubewell connection from 219/1(0-2) to 220(0-5) has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONERS

2. Learned counsel for the petitioners has submitted that the petitioners had filed the suit for declaration that they were owners and in possession to the extent of ½ share of electric tubewell connection no.SD5-



279 AP along with bore installed adjacent to it. It is submitted that the other prayers were also made in the suit and since tubewell / kotha was in khasra no.219, thus, it was stated that the bore was also installed in khasra no.219/1. It is submitted that khasra no.219 adjoins khasra no.220 and a perusal of the photographs which have been annexed as Annexure P-9 would show that the bore of the electric tubewell connection is at a slight distance away from the tubewell switch and, in fact, the said bore of electric tubewell connection which is in dispute is in khasra no.220 and not in khasra no.219. It is submitted that under a bonafide impression, since the lands are abutting each other, thus, it was mentioned that bore was installed in khasra no.219/1. It is argued that after having thoroughly considered the position at the spot, the petitioners learnt that the bore of the electric tubewell connection is in fact in khasra no.220 and accordingly, the petitioners filed an application under Order 6 Rule 17 CPC for amendment of the plaint which has been dismissed vide the impugned order dated 20.01.2024 primarily on the ground of due diligence/delay.

It is argued that since it is the suit of the plaintiffs, thus, delay if any would primarily cause prejudice to the plaintiffs. It is further submitted that the amendment if allowed would help in finally and properly adjudicating the case and that the defendants can be given a right to file amended written statement and also lead evidence to support the pleas in the amended written statement. It is further submitted that even a perusal of the aks latha / site plan (Annexure P-10) would clearly show that khasra no.220



adjoins khasra no.219 and the place where the bore is located, is adjacent to and abutting the tubewell/ kotha but are in different khasra numbers. It is submitted that in the said circumstances, the ends of justice would require that the amendment be allowed and the impugned order be set aside. In support of his arguments, learned counsel for the petitioners has relied upon the judgment of the Co-ordinate Bench of this Court in the case of “**Nishan Singh vs. Ajit Singh and others**” reported as **2023(1) Law Herald 5**.

3. Notice was issued in the present case to the respondents. In spite of service, no one had appeared on behalf of respondents no.3 to 5.

4. On 19.01.2026, this Court was pleased to pass the following order:-

*“Present:- Mr. Mayank Mathur, Advocate
for the petitioner.*

None for the respondents.

On 10.02.2025 none had appeared on behalf of the respondents.

Learned counsel for the petitioner has submitted that although there is an interim order in favour of the petitioner but the suit of the plaintiff/petitioner has been delayed.

Adjourned to 24.02.2026.

To be taken up after the urgent list.

It is made clear that in case the respondents do not appear on the next date of hearing, then, no further adjournment would be granted in the matter.

January 19, 2026”

Even today, no one has appeared on behalf of respondents no.3 to 5 to oppose the present revision petition.



5. Learned counsel for respondents no.1 and 2 has submitted that they are proforma parties and would not oppose the present revision petition.

ANALYSIS AND FINDINGS

6. This Court has heard learned counsel for the petitioners and has perused the paper book and finds that the present revision petition is meritorious and deserves to be allowed and the impugned order deserves to be set aside.

7. The Hon'ble Supreme Court in the case of ***Rajesh Kumar Aggarwal & Ors. vs. K.K. Modi & Ors.*** reported as ***2006(2) RCR (Civil) 577*** had observed that all the amendments which are necessary for determining the main question in controversy between the parties should be allowed and at the stage of allowing the amendment, the merits of the amendment are not required to be considered. 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.

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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.

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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, the petitioners are the plaintiffs, who have filed the suit for declaration that the plaintiffs are owners and in possession to the extent of ½ share of electric tubewell connection no.SD5 -279 AP alongwith bore installed. Further prayer has been made for mandatory injunction directing defendants no.1 and 2 to transfer the ownership of the said connection in favour of the petitioners / plaintiffs. Since it is the suit of the plaintiffs, thus, delay in the proceedings would primarily cause prejudice to the petitioners / plaintiffs. In the plaint, it has been mentioned that the bore is installed in khasra no.219/1. An application under Order 6



Rule 17 CPC was filed by the petitioners stating that after due verification it was found that the kota / tubewell in question is constructed in khasra no.219/1 whereas borewell in question is running in khasra no.220 which is adjoining to / abutting khasra no.219 as shown in aks latha / site plan and the said fact is also reaffirmed from the revenue record i.e., latest jamabandi, where gair mumkin motor has been shown to have been running in khasra no.220(0-5). In the said circumstances, the following amendment was sought by the petitioners:-

“(A) In the heading of the plaint, in para no.14, 15 and prayer clause of the plaint the plaintiffs want to replace Khasra no.219/1(0-2) by Khasra no.220 (0-5).

(B) In the para no.3 of the plaint the plaintiffs want to replace the words "tubewell Connection and Bore" with word "Kotha" and "they were" with word "it was" and "were" with word "it was". ”

A perusal of the photograph (Annexure P-9) as well as site plan/ aks latha (Annexure P-10) would show that khasra no.219 adjoins khasra no.220. It is further apparent that the bore of the electric tubewell connection is placed at some distance from the tubewell switch. It is further highlighted in Annexure P-10 that the bore and kotha are close and abutting but fall in khasra no.219 and 220. It is the case of the petitioners that the petitioners now wish to highlight and correctly mention the fact that the borewell is in khasra no.220 and not in khasra no.219. The trial Court has primarily rejected the case on the ground of delay. The primary issue in the suit is whether the petitioners are entitled to half share in the tubewell



connection along with bore which would be decided by the trial Court. Since the petitioners wish to highlight the fact that the borewell is in khasra no.220 and not in khasra no. 219, thus, the petitioners should be given every opportunity to prove the said fact and the petitioners should not lose merely on technical grounds. The amendment sought is necessary for the proper and final adjudication. Moreover, due opportunity can also be given to the respondents to file written statement to the amended plaint as well as to lead evidence in support of averments that would be made in the amended written statement.

9. The Co-ordinate Bench of this Court in the case of ***Nishan Singh (supra)***, even when the case was fixed for final arguments, had allowed the revision petition challenging an order of dismissal of the application under Order 6 Rule 17 CPC in which the amendment of the plaint was sought in order to incorporate three khasra numbers. In the said case the trial Court had rejected the amendment by observing that the petitioner therein had not exercised due diligence but the Co-ordinate Bench of this Court had allowed the same and permitted the petitioner therein to add three khasra numbers so that the matter could be finally adjudicated. The principle in the abovesaid judgment would also apply in the present case. Moreover, there is no opposition on behalf of the respondents with respect to allowing of the said amendment before this Court.

10. Keeping in view the above said facts and circumstances, the present revision petition is allowed and the impugned order dated



20.01.2024 is set aside and the application filed by the petitioners under Order 6 Rule 17 CPC (Annexure P-6) is allowed subject to the following directions:-

- i) The petitioners would deposit an amount of Rs.15,000/- within a period of two weeks and the said amount of Rs.15,000/- would be paid by the trial Court to defendants no.3, 4 and 5 in equal proportion i.e., Rs.5000/- each.
- ii) The petitioners would be granted two effective opportunities to lead evidence in support of the said amendment.
- iii) It is brought to the notice of this Court that the defendants are yet to lead their evidence and thus, the defendants, after being given opportunity to amend the written statement, would be given due opportunity to lead evidence in support of their claim and also rebut the evidence led by the plaintiffs.

(VIKAS BAHL)
JUDGE

February 24, 2026.
Davinder Kumar

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