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

**CR-2138-2026 (O&M)
Date of Decision: 08.04.2026**

KIRAN SHARMA & ANR THROUGH SPA Petitioners

Versus

SANDEEP SHARMA & ANR Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Saurabh Savara, Advocate
for the petitioners.

YASHVIR SINGH RATHOR, J. (Oral)

CM-6614-CII-2026

The applicant-petitioner through instant application under
Section 151 CPC is seeking permission to place on record Annexure P-4.

Allowed as prayed for.

Annexure P-4 is taken on record, subject to all just
exceptions. Registry is directed to tag the same at an appropriate place.

CR-2138-2026

1. This revision petition is directed against the order dated
19.01.2026 (Annexure P-4) passed by the Court of Additional District
Judge, Gurugram vide which the application under Order 6 Rule 17 CPC
read with Section 151 CPC seeking amendment of the probate petition



moved by the respondent (**hereinafter referred to as the petitioner**) has been allowed.

2. I have heard the learned counsel for the petitioner/revisionist and have gone through the material on record.

3. Learned counsel for the petitioner argued that the impugned order dated 19.01.2026 (Annexure P-4) passed by the Court of Additional District Judge, Gurugram vide which the amendment application has been allowed suffers from material illegalities, jurisdictional error and material irregularity and the Trial Court has not exercised judicial discretion in accordance with settled principles of law. Infact, by allowing the application for amendment, the nature of the petition shall altogether change and an entirely new case is being introduced under the garb of the application for amendment and the present respondent is seeking to plead some friendly loan transaction and transfer of possession which were never pleaded in the original petition. In case, the application is allowed, the foundation of the petitioner's case will entirely change which will seriously prejudice the rights of the present petitioner. Learned counsel contended that the application, in hand, has been instituted with a malafide intention to fill up lacuna in petitioner's case and the learned Trial Court has not appreciated the facts in the correct perspective while allowing the application and he prayed that the impugned order be set aside and the application seeking amendment of the petition be dismissed. In support of his contention, learned counsel relied upon the judgment of Hon'ble Supreme Court in Law Finder Doc Id # 205047 titled **'Revajeetu Builders and Developers Vs.**



Narayanaswamy & Sons & Others’.

4. The present petition has been instituted for grant of probate in respect of Will dated 14.04.2006 alleged to have been executed by late Shri R.K. Sharma in respect of Plot No.227, Udyog Vihar, Phase-IV, Gurgaon, Haryana in favour of the petitioner being sole beneficiary. By way of application under Order 6 Rule 17 CPC read with Section 151 CPC, the petitioner sought permission to amend the probate petition so as to incorporate certain additional pleadings to further explain the factual background and surrounding circumstances connected with the execution of the Will and by way of proposed amendment, he seeks to place on record copies of allotment letter and possession letter issued by HSIDC in respect of the suit property; to plead the prior acquaintance between the petitioner and the testator; to explain the circumstances in which the petitioner and a company associated with his family came into possession of the property and custody of the original title documents; to set out the background in which the testator allegedly agreed to execute the Will in favour of the petitioner; to aver continuous possession of the property thereafter, including leasing of the same to a third party and to explain the delay in initiating probate proceedings on account of non-availability of the death certificate of the testator, who had died abroad. It is further submitted that the proposed amendments are intended only to elaborate and clarify facts.

5. Respondents No.2 and 3 filed reply and opposed the application submitting that the petition was earlier dismissed which has been remanded by the High Court. It is further submitted that the

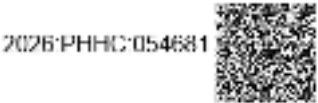


proposed amendments are not merely curative or explanatory and infact the petitioner is attempting to take advantage of the remand for de novo trial to introduce entirely new facts relating to an alleged friendly loan transaction and transfer of possession which were never pleaded in the original petition. The proposed amendment will set up a completely new case under the guise of amendment which is impermissible in law. It is further submitted that the story relating to loan transaction and transfer of possession has been concocted to justify what they describe as illegal and unauthorized occupation of the suit property. No documentary proof of the alleged financial transaction has been placed on record with the original petition and the proposed amendment will alter the foundation of the petitioner's case, thereby causing prejudice to the respondents. With regard to the documents sought to be introduced, the respondents have alleged that the original title documents of the deceased testator were taken by the petitioner under the pretext of assisting him in regularization of the property with HSIDC as the deceased was allegedly unable to complete construction within the stipulated time. The petitioner misrepresented his influence in the department, misused the documents so obtained and unauthorisedly occupied the property without the knowledge or consent of the respondents and dismissal of the application was sought.

6. It is not in dispute that the original petition was filed for probate of the Will dated 14.04.2006 allegedly executed by late Shri R.K. Sharma in favour of the petitioner in respect of the suit property. It is also not in dispute that the relief claimed has remained the same and by way



of the proposed amendment, the petitioner is not seeking any other new relief. In the original probate petition, there are averments relating to execution of the Will, death of the testator and that the petitioner is a beneficiary under the said Will. However, surrounding circumstances relating to the petitioner's relationship with the testator and the manner in which the petitioner claims to have come in possession of the property and custody of the original title documents were not mentioned in the original probate petition and by way of the application in hand, the petitioner is only seeking to incorporate such details, including reference to certain documents and events, with a view to further elaborate the facts and no new case is being set up. Moreover, elaboration of the circumstances will not amount to substitution of the cause of action or that some new relief is being claimed and rather the foundation of the case shall remain the same. The authenticity or due execution of the documents, occupation of the land by the petitioner and whether any fraud was committed or not cannot be gone into at the time of decision of the application seeking amendment of the petition. As such, amendments sought are essential for determining the real controversy between the parties comprehensively, which will enable the Court to adjudicate the matter completely and effectively. No prejudice will be caused to the respondents in case the application in hand is allowed, as they will also get an opportunity to file reply to the amended petition and to lead evidence to prove their own version. Learned Trial Court has also appreciated the facts of the case in the correct perspective while allowing the application and the impugned order neither suffers from material illegality nor manifest error so as to call for any interference.



7. Learned counsel for the petitioner has annexed a copy of the judgment of the Hon’ble Supreme Court in *Revajeetu Builders and Developers’s* case (supra) alongwith the main petition as Annexure P-5 but the judgment cannot be made a part of the pleadings and the same be, thus, removed from the file.

8. As a result of the aforesaid discussion, the petition in hand being meritless is ordered to be dismissed.

9. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

08.04.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No