



**CR-2606-2026 (O&M)**

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

**130**

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**Date of decision: 23.03.2026**

**OM PARKASH VERMA**

**....PETITIONER**

**VERSUS**

**THE SECRETARY (H & FW) AND OTHERS**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

**\*\*\*\*\***

Present : Mr. D.K. Chaudhary, Advocate for the petitioner.

Mr. Narender Kumar Vashisht, Senior Panel Counsel for  
respondent No.1.

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**YASHVIR SINGH RATHOR, J. (ORAL)**

1. This revision petition has been instituted by the petitioner/plaintiff under Article 227 of the Constitution of India for setting aside the orders dated 11.12.2025 and 07.02.2026, passed by learned Civil Judge (Senior Division), Chandigarh in Civil Suit No.2538 of 2018, titled “**Om Parkash and Others v. The Secretary (H & FW) and Others**” vide which applications under Order XVI Rules 1 & 2 CPC (**Civil Procedure Code, for short ‘CPC**) and Order XIV Rule 3, 4 & 5 of CPC have been dismissed.

2. I have heard learned counsel for the parties and have perused the material placed on record.

3. The first application has been moved by the petitioner/plaintiff for summoning witnesses in rebuttal evidence and allowing the plaintiff to deposit diet money etc. It is submitted that during



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the trial, defendants have relied upon report of the Medical Board Ex.P23, according to which there was no medical negligence in the treatment given to the deceased patient, namely, Smt. Lata Verma. The plaintiff disputes the correctness, objectivity and validity of the said opinion and in order to rebut and clarify the same, it is necessary that members of the said Medical Board be summoned and examined as witnesses. During cross-examination, DW1, who was examined to prove the report Ex.P23 has shown ignorance about facts of the case/record as summoned by the plaintiff and therefore, plaintiff intends to summon the members of the Medical Board, PGI, Chandigarh with respect to the said report. The examination of said witnesses is essential for just decision of the case.

4. Defendants in their reply have opposed the application submitting that numerous opportunities had been afforded to the plaintiff to lead evidence and plaintiff had concluded his evidence on 03.01.2025 in the affirmative. It is contended that plaintiffs cannot be allowed to lead additional evidence to fill up lacunae or omissions in their evidence and the application in hand is not maintainable. DW1 was thoroughly cross-examined by the plaintiffs after availing six opportunities and he has answered all the questions which were put to him. Infact, the plaintiffs intend to prolong the proceedings of the case and they want to reopen the case at the stage of final arguments which is not permissible. Dismissal of the application was thus prayed for.

5. The present case has been instituted by the plaintiffs seeking damages on account of death of Smt. Lata Verma allegedly due to medical



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negligence on the part of defendants. The following issues were framed by learned Trial Court on 19.09.2023:-

*“1. Whether the plaintiff is entitled to decree for damages & compensation for the claim of Rs.69,62,000/-on account of death of Smt. Lata Verma along with interest as prayed for. OPP*

*2. Whether the present suit is barred by limitation.? OPD*

*3. Whether the present suit is not maintainable for want of notice under Section 80 of CPC? OPD*

*4. Whether the present suit is bad for mis-joinder of necessary parties? OPD*

*5. Whether the present suit is not maintainable.? OPD*

*6. Relief.”*

6. The plaintiffs have concluded their evidence in affirmative on 03.01.2025 and thereafter, defendants have also led their evidence and have examined DW1 who was one of the members of the board of doctors who gave the report Annexure-P1. Now, by way of application in hand, the plaintiffs want to summon another member of the board of doctors on their behalf while leading evidence in rebuttal which in my opinion is not permissible. The plaintiffs can be permitted to lead evidence in rebuttal only on those issues, the onus of which lay upon the defendants. Plaintiffs were required to lead evidence to prove negligence on the part of defendants while leading their evidence in affirmative on issue No.1. The report Ex.P23 was in the knowledge of the plaintiffs from the very beginning, as defendants had relied upon the said report in their written statement. The application in hand thus has been moved just to prolong the case. The impugned order dated 11.12.2025 vide which the prayer to



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examine witnesses in rebuttal has been declined, thus does not suffer from any jurisdictional error or material illegality and no interference in the same is thus called for.

7. The second application has been moved under Order XIV Rule 3, 4 & 5 of CPC read with Section 151 of CPC for framing of additional issues and under Order VII Rule 14 read with Section 151 CPC for taking on record standard medical protocols/clinical guidelines/RTI application replies to RTI applications as Ex.P32 to Ex.P36.

8. It is submitted that Trial Court has framed issues No.2 to 4 vide order dated 19.09.2023 and has observed that no other issues arise. However, as per Order XIV Rule 3, 4 and 5 of CPC, issues must be framed on all material propositions of law or fact affirmed by one party and denied by the other. Rule 5 empowers the Court to frame additional issues at any stage before passing of decree. No specific issues have been framed on several material propositions of fact or law including issues relating to duty of care, standard of care, breach, causation, statutory violation, admissibility of medical evidence and non-filing of MLC. It has been prayed that following additional issues be framed as mentioned in the application Annexure P-5:-

*“1. Whether the Defendant-Hospital and its authorities were under a statutory and professional duty to disclose the identities, roles and responsibilities of the treating doctors and staff involved in the treatment of the deceased?*

*2. What was the standard of medical care required to be followed in the treatment of the deceased, considering her medical condition at the relevant time?*



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3. *Whether the treatment administered by the doctors and staff of Defendant No.2 conformed to the applicable standard of care, and if not, whether such deviation constitutes medical negligence or gross medical negligence?*
4. *Whether the injury and death of the patient was causally connected to the acts or omissions of the treating doctors and hospital staff?*
5. *Whether the failure to maintain, register or disclose complete medical records, including MLC where required, constitutes breach of statutory duty and attracts adverse inference?*
6. *Whether the medical reports/opinions relied upon by the Defendants, the authors whereof were not examined as witnesses, can be read in evidence, and if so, with what evidentiary value?*
7. *Whether reliance upon such unproved medical reports, despite objection by the Plaintiffs, vitiates the adjudication of medical negligence?"*

9. Defendants have filed reply to the application submitting that no such issues are required to be framed and dismissal of the application was sought.

10. Issues which have been initially framed vide order dated 19.09.2023 have been reproduced and in para No.5 of this order the issues now sought to be framed will be duly covered under issue No.1. Before the plaintiffs are held entitled to any damages and compensation on account of death of Smt. Lata Verma, the negligence has to be established on the part of the treating doctors including standard medical care required to be followed and whether proper treatment was given to the



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patient or not or the death took place due to act or omission on the part of treating doctors. Both the parties have already concluded their evidence on issue No.1 and defendants have also concluded evidence on the issues whose onus to prove lay upon them. There is thus no necessity to frame additional issues which are sought to be framed. The learned Trial Court has also appreciated the facts of the case in the correct perspective while dismissing the application. No material propositions of fact or law have been raised on the basis of which the additional issues could be framed and the Trial Court can very well decide this suit on the basis of issues already framed and can properly adjudicate the matter.

11. Resultantly, the present petition is ordered to be dismissed and no interference in the impugned orders dated 11.12.2025 and 07.02.2026 is thus called for.

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

**23.03.2026**

Vishal Vardhan

**(YASHVIR SINGH RATHOR)**  
**JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No