



CR-2397-2023 (O&M)

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

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Date of decision : 19.05.2026

Smt. Kanta Devi (since deceased) thr. Her LRs Petitioner

Versus

Gurbachan Singh (since deceased) thr. His LRs & ors. Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Dinesh Nagar, Advocate and
 Ms. Kamlesh Kumari, Advocate
 for the petitioner.

 Mr. Vipin Mahajan, Sr. Advocate with
 Ms. Tejinder Kaur, Advocate
 for the respondent.

PANKAJ JAIN, J. (ORAL)

1 Present revision petition is directed against the order dated 30.01.2023 passed by Civil Judge (Jr. Division), Dasuya whereby application filed under Order VI Rule 17 CPC seeking amendment of plaint by the plaintiffs-respondents has been allowed subject to payment of cost of Rs.2000/-. For convenience, parties hereinafter are referred to by their original position in the suit, i.e. the petitioner as defendant and the respondents as plaintiffs.

2 Plaintiffs filed suit seeking decree of declaration to the effect that the plaintiffs are owners in possession of land measuring 4 kanals 11 marlas, as detailed out in the head note of the plaint and that agreement to sell dated 24.03.2009 propounded by defendant and the consequential *ex-parte*



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judgment and decree based thereupon dated 23.03.2012 passed by Additional Civil Judge (Senior Division), Dasuya in a suit for Specific Performance bearing Civil Suit No.347 of 30.09.2009 titled as “Smt. Kanta Devi Vs. Gurcharan Singh & others’ is illegal and bad in law with the consequential relief of permanent injunction restraining defendants from interfering in the possession of the plaintiffs.

3 Defendant moved an application under Order VII Rule 11 CPC seeking rejection of the plaint for want of affixation of *ad valorem court fee* claiming that the sale deed having been executed in favour of the defendant, plaintiffs are required to affix *ad valorem court fee* in terms of Section 7(v)(c) of the Court Fees Act, 1870. In the said application, the plaintiffs pleaded that, they being in possession are not required to pay *ad valorem court fee*.

4 Later on, an application was moved by the defendant under Order XIV Rule 5 CPC claiming issue *qua* possession. Thereafter plaintiffs filed present application seeking amendment of the plaint to incorporate the following amendments in the suit :-

“10-A. That, the plaintiffs came to know during the proceedings of the instant (suit that the symbolic possession of the suit property was delivered to the defendants in the execution proceedings when the defendant has filed an application u/o 14 Rule 5 CPC, in which the defendants are alleging their possession over the suit property, hence the plaintiffs are claiming the relief of possession, in order to avoid any further legal complications to adjudicate the matter in suit judiciously.

15-A: That, the value of the suit for the purpose of Court fee for the subsequent relief of Possession, comes to Rs. 60/- being 30%



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+ 10% of the Land Revenue Assessed on the suit property and as such the Court Fee Stamp of Rs. 60/ is being affixed on the Amended Plaint.”

5 The application was resisted by the defendant claiming that once the trial has already commenced and the plaintiffs claim to be in physical possession, they cannot be allowed to resile from their earlier stand and thus the amendment cannot be allowed. Trial court allowed the application vide impugned order holding that even by way of proposed amendment, the plaintiffs are not seeking delivery of actual physical possession but are claiming that in execution of the *ex-parte* decree, the defendant were only put in symbolic possession. Trial Court accordingly held that for final resolution of the dispute between the parties the proposed amendment being necessary, it needs to be allowed.

6 Mr. Dinesh Nagar, Advocate for the defendant has assailed the impugned order. He submits that once the plaintiffs have consistently maintained the stand of being in possession, not only in the plaint but also in the reply to the application filed under Order VII Rule 11 CPC, they cannot be permitted to somersault, that too after commencement of the trial.

7 *Per contra*, Mr. Vipin Mahajan, Senior advocate for the respondents-plaintiffs would submit that the Trial Court has rightly allowed the application seeking amendment of the plaint to reduce the multiplicity of litigation. The defendant obtained *ex-parte* decree at the back of the plaintiffs propounding agreement to sell purported to have been executed by the



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vendors who had already died 10 years prior to the date of execution of agreement to sell.

8 I have heard counsel for the parties and have carefully gone through the records of the case.

9 The law with respect to amendment in the pleadings has been elaborately explained by Supreme Court in the case of ***Life Insurance Corporation of India V. Sanjeev Builders Private Limited and another, Civil Appeal No.5909 of 2022 dated 01.09.2022*** culling out the following parameters :-

“70.....(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

(iii) The prayer for amendment is to be allowed

(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and

(ii) to avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and

(c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

(iv) A prayer for amendment is generally required to be allowed unless

(i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,

(ii) the amendment changes the nature of the suit,



- (iii) *the prayer for amendment is malafide, or*
- (iv) *by the amendment, the other side loses a valid defence.*
- (v) *In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.*
- (vi) *Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.*
- (vii) *Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.*
- (viii) *Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.*
- (ix) *Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.*
- (x) *Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.*
- (xi) *Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should*



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be allowed. (See Vijay Gupta v. Gagninder Kr. Gandhi & Ors. , 2022 SCC OnLine Del 1897) .”

10 Applying the aforesaid ratio to the present case, this Court finds that even by way of the proposed amendment, the plaintiffs have not given up their stand of being in actual physical possession of the suit property. Rather, they claimed that in execution the defendant was delivered symbolic possession only. That apart, this Court finds that the Trial Court rightly held that the proposed amendment would reduce the multiplicity of the litigation and was thus necessary for the resolution of the entire dispute between the parties.

11 In view of above, finding no merits in the present revision petition, the same is ordered to be dismissed.

12 Anything observed herein above shall not be construed as an expression on the merits of the case.

13 Pending miscellaneous application, if any, also stands disposed off.

19.05.2026

Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No