



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
115

CR-1608-2021(O&M)
Date of decision: 24.03.2026

Mohinder Singh & Another

...Petitioner(s)

Vs.

Mohan Singh Deol & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ishan Chopra, Advocate
for the petitioners.

Mr. Sandeep Bansal, Advocate
Ms. Nishtha, Advocate
Mr. Nikhil Mitharwal, Advocate
for respondent No.1.

Service of respondents No.2 to 7 dispensed with
Vide order dated 24.11.2021.

NIDHI GUPTA, J.

Present Revision Petition under Article 227 of the Constitution of India has been filed by the defendants No.1 and 3 laying challenge to the order dated 27.02.2020 (Annexure P7) passed by learned Civil Judge (Senior Division), Hoshiarpur, whereby application filed by the petitioners under Order 6 Rule 17 CPC for amendment of written statement, has been dismissed.

2. It is inter alia submitted by learned counsel for the petitioners that the learned trial Court was in error in dismissing the application of the



petitioners as it failed to appreciate that vide the said amendment, no new or inconsistent case was being sought to be incorporated by the petitioners. It is submitted that after the conclusion of the plaintiff evidence, when the evidence of the defendants had to start and affidavit to that effect was being prepared, counsel for the petitioners had seen the Agreements to Sell dated 24.08.2006, 05.11.2007 and Sale Deed dated 04.06.2008. It is submitted that after perusing the said documents, learned counsel for the petitioners had realised that there is a typographical error in Para 2 of the written statement as in the said Para, it had been mentioned that the respondent No.1 has executed Agreement to Sell dated 24.08.2006 in respect of land measuring 18 acre 5 kanal; whereas as per Agreement to Sell dated 24.08.2006, the said Agreement was executed by respondent No.1 in favour of petitioner No.1 with regard to property measuring 18 acre 5 kanal for a sum of Rs.6,25,000/- per acre and out of the said amount, Rs.2,00,000/- was received as earnest money.

3. It is submitted that thereafter, the respondent after receiving sale consideration from petitioner no. 1 has executed power of attorney dated 08.06.2007 in favour of petitioner no.1; who further entered into agreement to sell dated 05.11.2007 in favour of defendant no. 2 i.e. Gurdeep Singh son of Harnam Singh. However, in para no. 2 of the written statement, due to the typographical error, it was mentioned that the agreement to sell dated 05.11.2007 with regard to land measuring 18 acre 5 Kanal was executed in favour of defendant no. 2 i.e. Gurdeep Singh son of Harnam Singh and



petitioner no. 2 i.e. defendant no. 3. Thus, due to the typographical mistake, the name of defendant no. 3 i.e. petitioner no. 2 was entered. To substantiate the said fact, the petitioners would be relying upon the agreement to sell dated 05.11.2007, the perusal of which clearly shows that the said agreement to sell was executed in favour of defendant no. 2 i.e. Gurdeep Singh son of Harnam Singh and not in favour of the petitioner no. 2 i.e. defendant no. 3 in the suit. Thus, it is only due to the typographical mistake that the name of the petitioner no. 2 was mentioned in para no. 2 of the written statement.

4. It is further submitted that thereafter, defendant no. 2 i.e. Gurdeep Singh son of Harnam Singh has executed sale deed 04.06.2008 in favour of petitioner no. 2, however, in para no. 2 of the written statement, it was mentioned that the sale deed dated 04.06.2008 was executed in favour of petitioner no.2 and Tejinder Singh son of Gurdeep Singh i.e. defendant no. 4. Thus, due to the typographical mistake, the name of defendant no. 4 i.e. Tejinder Singh was mentioned, whereas the said sale deed was executed only in favour of defendant no. 3 (i.e. petitioner no. 2).

5. It is submitted that therefore, from the above submissions, it is crystal clear that only due to typographical mistake in the written statement, the said errors have occurred which were sought to be corrected vide the amendment. It is reiterated that from the above facts, it is clear that Agreement to Sell dated 24.08.2006 was executed by the plaintiff in favour of the petitioner/defendant No.1 and his nephew and plaintiff had received Rs.20



lakh as earnest money. It is clear that after receiving total sale consideration from petitioner No.1, the plaintiff had executed Power of Attorney in favour of petitioner No.1; who had further entered into Agreement to Sell dated 05.11.2007 with defendant No.2 and executed Power of Attorney in favour of defendant No.2; on the basis of which defendant No.2 had executed Sale Deed dated 04.06.2008 in favour of defendant No.3 i.e. petitioner No.2. Clearly therefore, no new or inconsistent plea has been introduced by the proposed amendment as the said facts have already been pleaded and it is only name of extra defendants which have been introduced. Moreover, amendment sought by the petitioners is based upon the Revenue Record. Even otherwise, the plaintiff will get the opportunity to cross-examine the defendant witnesses and therefore, no prejudice will be caused to him. Learned Civil Judge has also failed to appreciate that there was no delay on part of the petitioners as when the evidence was started and petitioners had to submit their affidavit in evidence that the aforesaid facts came to light. It is accordingly prayed that the present Revision Petition be allowed and the impugned order be set aside.

6. Per contra, learned counsel for the respondent No.1/plaintiff vehemently opposes the submissions advanced on behalf of the petitioners and submits that the petitioners had moved instant application for amendment at a highly belated stage. It is submitted that it has been admitted by the petitioners that all the above mentioned documents have been executed by the defendants, including the petitioners. As such, petitioners



were well aware of the said alleged Agreements. The Civil Suit is pending since 2014. Yet, application has been filed at a highly belated stage to delay the trial. The matter is now fixed for arguments on 25.03.2026. It is accordingly prayed that the present Revision Petition be dismissed.

7. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the petitioners.

8. Brief facts of the case in chronological order are as under:-

25.02.2014: The plaintiff/respondent No.1 herein had filed Civil Suit dated 25.02.2014 (Annexure P1) for declaration and permanent injunction against the petitioners and defendants/respondents No.4 to 8 herein.

11.3.2019: The petitioners had previously filed their written statement. However, subsequently, they moved an (first) application dated 11.3.2019 seeking amendment in the said written statement.

8.4.2019: The above said first application of the petitioners for amendment of written statement was allowed by the trial court vide order dated 8.4.2019.

09.05.2019: The petitioners had then filed amended written statement dated 09.05.2019 (Annexure P2) to the Civil Suit.

16.8.2021: The record further reveals that petitioner No.1 had previously submitted his Affidavit (Ex.DW1/A). Subsequently, he had moved an application for correction in the said Affidavit purportedly due to typographical mistake. Accordingly, present petitioners had filed an application for



amendment of the said Affidavit (Ex.DW1/A); which was dismissed by the learned trial Court vide order dated 16.08.2021.

6.10.2021: The petitioners had challenged the order dated 16.8.2021 before this Court, by way of Civil Revision Petition No.2244 of 2021; which was dismissed by the Predecessor Bench vide order dated 06.10.2021.

Nil: Thereafter, the petitioners had moved the instant application dated 'Nil' (Annexure P6) under Order 6 Rule 17 CPC for amendment of their above-said written statement.

Nil: The respondent No.1/plaintiff had filed reply to the application for amendment of written statement dated 'Nil'.

27.02.2020: Vide impugned order dated 27.02.2020 (Annexure P7), application of the petitioners under Order 6 Rule 17 CPC has been dismissed.

9. Order 6 Rule 17 CPC reads as follows: -

*"17. Amendment of pleadings. -The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:
Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."*

10. A bare reading of the above provision shows that amendment is not permitted after commencement of trial. Whereas, in the present case, as



stated by learned counsel for the respondent, matter is now fixed for final arguments. Even otherwise, even at the time of filing the present application for amendment trial had commenced long prior thereto. Present application had been filed after plaintiff had already concluded his entire evidence. The defendants had also examined as many as 6 witnesses including the petitioners herein. Even the witnesses had been cross-examined at length. Clearly therefore, present application for amendment had been filed at highly belated stage. Furthermore, it is also to be seen that evidence has been led by the parties in terms of the stand taken heretofore by the parties in their pleadings. Thus, to permit amendment at this belated stage would result in de novo trial.

11. It is also to be noted that the defendants had previously also moved an application dated 11.03.2019 under Order 6 Rule 17 CPC for amendment of their written statement; which stood allowed vide order dated 08.04.2019. Clearly, therefore, the defendants have not exercised due diligence in not incorporating all the necessary amendments at one stage.

12. No doubt, as per the case law on the subject, liberal view must be taken to permit amendment for proper adjudication of the issues at hand. However, the said amendment is to be permitted in terms of the proviso to the provision which stipulates that due diligence has to be exercised. In the present case, vide the proposed amendment, the petitioners are seeking to incorporate the alleged Agreements to Sell dated 24.08.2006 and 5.11.2007. The contention of the petitioners that the said Agreement came to their



knowledge only at the time of drafting of Affidavit of Evidence, belies belief as the said alleged Agreement is stated to have been executed in favour of the petitioner No.1 himself. Thus, it is improbable that the petitioner No.1 himself was not aware of the said Agreement.

13. Further, record also reveals that petitioner No.1 had previously submitted his Affidavit (Ex.DW1/A). Subsequently, he had moved an application for correction in the said Affidavit purportedly due to typographical mistake. Accordingly, present petitioners had filed an application for amendment of the said Affidavit (Ex.DW1/A); which was dismissed by the learned trial Court vide order dated 16.08.2021. The Civil Revision Petition No.2244 of 2021 filed by the petitioners against the order dated 16.08.2021, already stands dismissed by the learned Predecessor Bench vide order dated 06.10.2021.

14. Needless to say, the amendment now sought by the petitioners amounts to withdrawal of the admission previously made by them in the written statement. Further, there is an absolute absence of due diligence on part of the petitioners in seeking the amendment in question.

15. The only situation in which amendment is permitted after trial has commenced is if, *in spite of due diligence, the party could not have raised the matter*. It is established position in law that inadvertence or repeated typographical errors constitute no reason to permit amendment; especially after commencement of trial. I am supported in my view by recent judgment



dated 29.2.2024, of the Hon'ble Supreme Court in **Basavaraj v. Indira (SC)** :

Law Finder Doc Id # 2510571 wherein it is held that: -

"Amendment of pleadings – Oversight cannot be accepted as a ground to allow any amendment in the pleadings at the fag end of the trial."

16. Reference may also be made to another judgment of the Hon'ble Supreme Court in **Pandit Malhari Mahale v. Monika Pandit Mahale,**

(SC) : Law Finder Doc Id # 1691426 wherein it is held as under:-

"Civil Procedure Code, 1908, Order 6, Rule 17 - Amendment of Complaint - Amendment application filed after evidence begun - In absence of any finding that Court is satisfied in spite of due diligence, party could not introduce amendment before commencement of trial - Therefore, amendment of complaint unsustainable and set aside."

17. This Court in **Rati Ram v. Inder (P&H) : Law Finder Doc Id # 244372** has held as under:-

"Civil Procedure Code, 1908, Order 6, Rule 17 - Amendment of Pleadings - Amendment cannot be allowed as a matter of right - Amendment was not at all necessary to determine the real controversy between the parties - The application was not bona fide as such, it was only filed to delay the proceeding further when the suit remained pending for seven years - Amendment right decline."

18. Again in **"K.B. Sharma Vs. Shri Keerti Karan Dharni" (P&H) Law Finder Doc ID # 205192**, this Court has held that: -



“A. Civil Procedure Code, 1908, Order 6, Rule 17, Proviso - Amendment of written statement - After the commencement of trial, amendment of pleadings cannot be allowed, until and unless, the party seeking amendment establishes that despite due diligence, it could not raise the pleas sought to be incorporated by way of amendment - Where defendant was already in knowledge of such pleas at the time of filing the original written statement - Amendment cannot be allowed.”

19. It would appear from the above facts that the present application has been moved by the petitioners only with a view to prolong the trial, which is already pending since 2014. Moreover, petitioners have already been permitted once before to amend their written statement vide order dated 08.04.2019. To do so, again, would be highly prejudicial to the plaintiff.
20. In view of the above, present Civil Revision Petition stands **dismissed.**
21. Pending application(s) if any also stand(s) disposed of.

24.03.2026
Sunena

(Nidhi Gupta)
Judge

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