



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-3392-2024
Date of decision : 11.05.2026

Aarti Seth and another

... Petitioners

Versus

Gopal Krishan and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Varun Sharma, Advocate
for the petitioners.

Ms.Himani Kapila, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

CHALLENGE IN THE PRESENT REVISION PETITION

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 21.03.2024 (Annexure P-1) passed by the Civil Judge (Sr.Div.), Jalandhar, whereby the application of the petitioners for amendment of the plaint under Order 6 Rule 17 CPC, 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 permanent injunction and before the issues



were framed, had filed an application under Order 6 Rule 17 CPC in order to state the subsequent events which were to the effect that a compromise dated 07.10.2019 had been effected between the plaintiff no.1 and one of the defendants and that the defendants/respondents had encroached upon the land belonging to the plaintiffs and had also raised illegal construction, after the filing of the suit. It is further argued that in view of the said subsequent facts, it was necessary for the plaintiffs-petitioners to add the prayer for mandatory injunction. It is submitted that, although, the said amendment was necessary for the proper and final adjudication of the case, yet the trial Court had dismissed the said application on surmises and conjectures.

3. It is submitted that the issues in the present case were framed on 22.08.2024, whereas the impugned order in the present case has been passed on 21.03.2024, prior to the framing of issues and thus, the trial had not commenced. It is submitted that it is a matter of settled law that all the necessary amendments should be allowed in order to avoid multiplicity of litigation. It is further pointed out that in the impugned order it has been observed by the trial Court that the petitioners-plaintiffs can file separate proceedings in view of the subsequent cause of action, which would lead to multiplicity of litigation between the same parties.

ARGUMENTS ON BEHALF OF RESPONDENT NO.2.

4. Learned counsel for respondent no.2, on the other hand, has submitted that initially the suit for permanent injunction was filed and



subsequently in the said suit, a prayer for mandatory injunction is sought to be made and thus, the nature of the suit is being changed. It is further submitted that the pleas raised in the application for amendment of plaint are false pleas and thus, the amendment should not be allowed. It is argued that the impugned order dated 21.03.2024 is in accordance with law and deserves to be upheld.

ANALYSIS AND FINDINGS

5. It is not in dispute that the petitioners had filed a suit for permanent injunction against the respondents-defendants. The head note of the said suit is reproduced hereinbelow:-

“Suit for decree of Permanent Injunction Restraining the Defendants, either themselves or through attorneys, nominees, representatives etc. from breaking/damaging the Parnala/Drainage Pipes and the wall on the southern side of the property no. B-IV-25-232/2, owned by the plaintiff no.1 shown red in the site plan and bounded as under: -

<i>East :</i>	<i>Joint Ownership of plaintiff no.2</i>
<i>West :</i>	<i>Road/Mitha Bazaar</i>
<i>North:</i>	<i>Joint Ownership of plaintiff no.2</i>
<i>South:</i>	<i>Property of defendants”</i>

6. Prior to the framing of the issues, an application was filed by the petitioners under Order 6 Rule 17 CPC for amendment of the plaint on the plea that a compromise dated 07.10.2019, which has been annexed as Annexure P-4, has been entered into between one of the plaintiffs and one of the defendants and the matter was settled but the defendants, on account of malafide intention, did not implement the said compromise and rather



encroached upon the property of plaintiff no.1 to the extent of 4” to 13” from the southern side of the property of the plaintiffs and thus, the petitioners-plaintiffs had to additionally seek the relief of mandatory injunction and also to incorporate the necessary averments with respect to the events which had taken place during the pendency of the suit. It was further the case of the petitioners-plaintiffs in the amendment application that illegal construction and encroachment had been done during the period of lockdown in the year 2020 which was after the filing of the suit and which facts were also required to be incorporated. The said application for amendment has been dismissed by the trial Court vide impugned order dated 21.03.2024 and in the said order, it has been observed that since separate cause of action has accrued to the plaintiffs, thus, liberty was granted to the plaintiffs to institute separate proceedings. Certain observations with respect to the merits of the amendment sought were made in the impugned order. The said order is against law and deserves to be set aside.

7. It has been repeatedly held that all necessary amendments should be allowed and the Court is not required to go into the merits of the amendment at the time of allowing the same. Reference in this regard can be made to the judgment of the Hon'ble Supreme Court of India in the case of ***Rajesh Kumar Aggarwal & Ors. vs. K.K. Modi & Ors.*** reported as **2006(2) RCR (Civil) 577**. 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.

A perusal of the abovesaid judgment would show that it has also been observed that all amendments which are necessary for determining the real question in controversy between the parties should be allowed.

8. In the present case, it could not be disputed that the amendment is necessary for the proper and final adjudication of the case and would also help in avoiding multiplicity of litigation as, in case, as observed in the impugned order, the petitioners were required to file another suit against the



respondents the same would only lead to multiplicity of litigation. It would be in the best interests of all the parties that all issues between the parties are resolved in one suit, moreso, when it is not in dispute that the issues in the present case had been framed on 22.08.2024 and thus, on the date the application was filed and on the date the impugned order was passed, the issues had not been framed and the trial had not commenced. Every opportunity would be given to the respondents to file amended written statement to controvert the pleas raised in the amended plaint and thus, it cannot be said that any prejudice would be caused to the respondents, rather, not allowing the amendment would cause serious prejudice to the petitioners-plaintiffs, inasmuch as, in case the petitioners-plaintiffs are able to establish the pleas raised by the petitioners in the plaint as well as in the application for amendment, then, on account of lack of prayer for mandatory injunction having been made, the Court will not be able to grant the relief to which the petitioners may be entitled.

9. Keeping in view the above said facts and circumstances, the present revision petition is allowed and the impugned order dated 21.03.2024 is set aside and the application filed by the petitioners for amendment is also allowed.

10. Needless to say that in case the respondents have not filed the amended written statement, then, due opportunity be granted to the respondents to file amended written statement to the amended plaint filed by the petitioners.



11. It is made clear that the observations made in the present revision petition would not be construed as expression on the merits on the case and the same has been made only for the purpose of considering the legality or otherwise of the order, vide which, the application under Order 6 Rule 17 CPC, filed by the petitioners, has been dismissed and should not be construed as an expression on the merits of the main suit and the trial Court would decide the suit independently in accordance with law.

(VIKAS BAHL)
JUDGE

May 11, 2026.
Davinder Kumar

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