



302

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

CR-3893-2022 (O&M)

Date of Decision : 10.02.2026

SUKHWANT SINGH

.... Petitioner

VERSUS

GRAM PANCHAYAT AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Tanvir Singh Attariwala, Advocate for the petitioner.

Mr. Sahil Puri, Advocate for the respondents.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 23.05.2022 (Annexure P-1) passed by the learned Civil Judge (Senior Division), Kapurthala whereby the application filed under Order VI Rule 17 CPC for amendment of the plaint was dismissed.

2. Brief facts relevant to the present *lis* are that on 29.06.2021 the petitioner herein filed a suit for permanent injunction for restraining the respondents herein from raising the level of the street 18 feet in width wrongly and illegally and above the street already constructed and sewerage already laid in the said street. On 14.09.2021 written statement was filed by respondent No.1 herein taking a stand that maximum work had already been done except for the work in front of the house of the petitioner and his neighbour. Issues were framed on 22.10.2021. On 25.11.2021 the present

application was filed. Reply was filed to the said application. Vide the impugned order dated 23.05.2022 the application was dismissed on the ground that the amendment cannot be allowed after commencement of the trial and that it would amount to change in the nature of the suit.

3. Learned counsel for the petitioner would contend that the necessity to file the present application arose because in the written statement a stand was taken that maximum work had been concluded therefore the requirement to add the relief of mandatory injunction. Learned counsel has further contended that the present amendment is necessary to avoid multiplicity of proceedings and that the amendment would not result in the respondents losing a valid defence. In support of his contentions, learned counsel for the petitioner has relied upon the judgments in the cases of **Life Insurance Corporation of India V/s Sanjeev Builders Private Limited & Anr. [2023 (1) RCR (Civil) 851]**, **Amarjit Singh V/s Sarabjit Kaur & Anr. [2015(9) RCR (Civil) 453]** and **Amarjit Singh Dhaliwal & Anr. V/s M/s Dev Raj and Sons & Ors. [2013 SCC OnLine P&H 18706 = Doc Id #2073215]**.

4. *Per contra*, learned counsel for the respondents would contend that since maximum work had already been concluded hence the suit itself was rendered infructuous and that the petitioner would need to file a fresh suit. It is further the contention of the learned counsel that the present amendment would amount to changing the nature of the suit. Learned counsel for the respondents has relied upon the judgments in the cases of **Vidyabai & Ors. V/s Padmalatha & Anr. [2009 (1) RCR (Civil) 763]** and **Rajkumar**

Gurawara (Dead) Thr. LRs V/s M/s S.K. Sarwagi & Co. Pvt. Ltd. & Anr. [2008 (4) RCR (Civil) 824] to contend that the Courts have no jurisdiction to allow amendment of the proceedings after commencement of the trial. Further reliance has been placed on the judgment in the case of **Revajeetu Builders and Developers V/s Narayanaswamy & Sons & Ors. [2010 (1) RCR (Civil) 27]** to contend that the amendment is *mala fide* and is made for delaying the trial and that the construction is raised with permission.

5. Heard.

6. In the present case the original suit was for permanent injunction, however, written statement was filed by the respondents stating therein that maximum work had already been carried out. Issues were framed. Before the commencement of the evidence, the present application was filed. The Hon'ble Supreme Court in the case of **Sanjeev Builders Private Limited** (supra) has held as under :

“70. Our final conclusions may be summed up thus :

(i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.

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

The necessity to file the present application arose as a stand was taken by the respondents that the construction was almost over. Their Lordship in the case of **Sanjeev Builders Private Limited** (supra) have held that if the amendment is required to avoid multiplicity of proceedings and the other side does not stand to lose a valid defence, the same should be allowed. It was further held that the amendment is generally required to be allowed unless by way of the amendment a time-barred claim is being introduced or it changes the nature of the suit, or the amendment is *malafide*.

7. In the present case, no malafide on the part of the petitioner has been shown. The addition of the prayer for mandatory injunction would only avoid multiplicity of proceedings and is necessary in view of the stand taken by the respondents.

8. The judgment relied upon by the learned counsel for the respondents would not come to his aid inasmuch in the case of **Sanjeev Builders Private Limited** (supra), after discussing the entire law, certain principles have been laid down by their Lordships. Even in the case of **Dinesh Goyal @ Pappu V/s Suman Agarwal (Bindal) & Ors. [2024 (4) RCR (Civil) 417]** it has been held by the Hon’ble Supreme Court that after framing

of the issues or in fact at the appellate stage as well, the amendments can be allowed.

9. The judgment relied upon by the learned counsel for the respondents in the case of **Revajeetu Builders and Developers** (supra) would not come to his aid, rather it helps the case of the petitioner inasmuch as the following principles have been laid by their Lordships :

*‘FACTORS TO BE TAKEN INTO CONSIDERATION
WHILE DEALING WITH APPLICATIONS FOR
AMENDMENTS:*

67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application’.

It has been further held in the said judgment that the proposed amendment shall not constitutionally or fundamentally change the nature and character of the case. In the present case, as observed above, the amendment becomes necessary because of the stand taken by the respondents in their written statement. The judgment relied upon by the learned counsel for the respondents in the case of **Rajkumar Gurawara (Dead) Thr. LRs** (supra) would not come to his aid as in the said case the amendment sought was at the stage of arguments.

10. In view of the law laid down in the case of **Sanjeev Builders Private Limited** (supra) and in view of the above, the present revision petition is allowed. The impugned order dated 23.05.2022 (Annexure P-1) is set aside and the application (Annexure P-4) filed by the petitioner under Order VI Rule 17 CPC for amendment of the plaint is allowed. Pending applications, if any, also stand disposed off.

10.02.2026
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No