

CR-4688-2024

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2026 PHHC 036600



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(343)

CR-4688-2024

Date of Decision: - 10.03.2026

Pushpa

....Petitioner

Versus

Ravinder Rathee alias Rinkoo and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Jagram Singh Cooner, Advocate
for the petitioner.

Ms. Kavita, Advocate
for the respondents.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 20.04.2024 (Annexure P-1) passed by the Civil Judge (Junior Division), Bahadurgarh, District Jhajjar, vide which the application filed by the petitioner for amendment of the plaint has been dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner/plaintiff had filed a suit for permanent injunction on 04.03.2020 and prior to the written statement having been filed, the petitioner had moved an application under Order 6 Rule 17 read with Section 151 CPC dated 10.08.2020 for amendment of the plaint in order to incorporate the subsequent events which had occurred during the



pendency of the suit. It is further submitted that since the defendants had forcibly taken possession of the premises in question on 07.07.2020, thus, the petitioner/plaintiff in order to incorporate the said fact, filed the application for amendment, which is necessary for the proper and final adjudication of the case. It is argued that the amendment application was filed within a period of one month and five days from the date of the incident i.e. on 07.07.2020. It is submitted that the trial Court has however wrongly dismissed the said application and the impugned order deserves to be set aside. It is argued that the delay in the proceedings in any manner would prejudice the petitioner and the respondents would have the right to file a written statement to the amended plaint.

3. Learned counsel for the respondents has submitted that the impugned order has been rightly passed and deserves to be upheld. It is further submitted that earlier a suit for permanent injunction was filed, which is now sought to be converted to a suit for possession, which should not be permitted.

4. This Court has heard learned counsel for the parties and has perused the paper-book and finds that the present revision petition is meritorious and deserves to be allowed and the impugned order dated 20.04.2024 deserves to be set aside for the reasons detailed hereinafter.

5. The Hon'ble Supreme Court in the case of ***Rajesh Kumar Aggarwal & Ors. vs. K.K. Modi & Ors.*** reported as ***2006(2) RCR (Civil) 577*** had observed that all the amendments which are necessary for determining the main question in controversy between the parties should



be allowed and at the stage of allowing the amendment, the merits of the amendment are not required to be considered. 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.

xxx xxx xxx

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.”

6. It is not in dispute that the present petitioner had filed a suit for permanent injunction against the defendants. The plaint in the present case is dated 04.03.2020 and has been annexed as Annexure P-2 along with the present revision petition. On 10.08.2020, an application under



Order 6 Rule 17 CPC read with Section 151 CPC was filed. The copy of the said application is annexed as Annexure P-3. A perusal of the said application would show that it was specifically stated in the application that the case is fixed for 02.09.2020 for filing written statement. The fact that the written statement was not filed at that stage is not disputed before this Court. Thus, it is apparent that the trial had not commenced as neither the written statement was filed nor the issues had been framed. It is a matter of settled law that the trial commences on the date when the issues are framed.

7. Further perusal of the application under Order 6 Rule 17 CPC dated 10.08.2020 would show that the amendment which was sought by the petitioner/plaintiff was on account of subsequent events which had taken place after the filing of the suit. It was the case of the petitioner/plaintiff that on 07.07.2020 the defendants had forcibly taken possession of the house in question and thus, the petitioner/plaintiff wanted to amend the plaint in order to incorporate the said fact and also wanted to add a prayer for a decree for possession, the cause of action for which arose during the pendency of the suit. It is apparent that the said amendment is necessary for the proper and final adjudication of the case and the petitioner/plaintiff has a right to prove her stand. In case the petitioner is able to establish the averments made in the application and it is found that the defendants had forcibly taken possession during the pendency of the suit, then, disallowing the amendment would be a travesty of justice, inasmuch as, the petitioner would not be able to claim



possession in spite of having a right to the property and in spite of her having been able to show that she has been dispossessed by the defendants. The question as to whether the defendants had taken the possession of the property illegally or not would be considered during the course of trial and at the stage of deciding the application for amendment, the merits of the amendment are not to be considered as per the law laid down by the Hon'ble Supreme Court in *Rajesh Kumar Aggarwal (supra)*. Moreover, the case is at the initial stage and no prejudice would be caused to the respondents as they have every right to file written statement to the amended plaint. The trial Court has thus erred in dismissing the application for amendment. Thus, the impugned order deserves to be set aside and the application for amendment deserves to be allowed.

8. Keeping in view the above-said facts and circumstances, the present revision petition is allowed and the impugned order dated 20.04.2024 is set aside and the application dated 10.08.2020 (Annexure P-3) filed under Order 6 Rule 17 CPC for amendment of the plaint is allowed.

9. Needless to say that the defendants/respondents would be given an opportunity to file written statement to the amended plaint.

March 10, 2026

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(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes