



CR-5044-2023

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

(205)

CR-5044-2023

Date of decision: - 08.04.2026

Mohinder Singh

....Petitioner

Versus**Manjit Singh**

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Dharminder Singh Randhawa, Advocate,
for the petitioner.

Mr. S.P.S. Aulakh, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 21.08.2023 (Annexure P-7) passed by the Civil Judge (Junior Division), Amloh, vide which the application filed by the petitioner/plaintiff under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner had filed a suit for possession by way of specific performance. It is further submitted that an agreement to sell, which was entered into, was dated 04.11.2014 and the last date for execution of the same was 05.11.2015, but inadvertently, due to a typographical mistake, the said



date was mentioned as 15.11.2015 in paragraphs No.3, 5 and 6 and 13 of the plaint. It is further submitted that the suit was filed within limitation from 05.11.2015 as well as from 15.11.2015 and thus, the correction of the said date would not prejudice the defendant. It is argued that the defendant had denied the agreement dated 04.11.2014 and thus, the date for execution of the sale deed was inconsequential as far as the defence of the defendant is considered. It is submitted that when the plaintiff learnt about the said typographical mistake, the petitioner/plaintiff moved an application for amendment in which it was specifically stated that the same was a typographical mistake but the trial Court has dismissed the said application. It is argued that the said mistake, which is a typographical mistake, should have been allowed to be rectified and the same is necessary for the proper and final adjudication of the case.

3. Learned counsel for the respondent, on the other hand, has submitted that the application has been moved at the fag end of the trial when the matter was fixed for arguments. It is further submitted that the said mistake should have been sought to be rectified earlier. It is stated that at any rate, even in case the said mistake is allowed to be rectified at this stage, then, heavy cost should be imposed upon the petitioner/plaintiff.

4. Learned counsel for the petitioner has submitted that in view of the objections raised, the petitioner is ready to pay a reasonable cost.

5. This Court has heard learned counsel for the parties and has perused the paper-book and is of the opinion that the amendment sought



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to be made is only on account of a typographical mistake and the said amendment should have been allowed as the same is necessary for the proper and final adjudication of the case and the impugned order dated 21.08.2023, thus, deserves to be set aside.

6. A perusal of the plaint would show that the case of the plaintiff is based upon the agreement dated 04.11.2014, which agreement, has been denied by the defendant in the written statement. It is the case of the plaintiff that the last date for execution of the sale deed was 05.11.2015 and inadvertently on account of typographical mistake, the said date was mentioned as 15.11.2015 and it is the said typographical mistake, which is sought to be rectified. The changing of the date from 15.11.2015 to 05.11.2015 would not, in any way, prejudice the defendant, inasmuch as, the suit which was instituted by the plaintiff on 10.07.2017, is within a period of three years irrespective of the fact that as to whether the date for execution of the sale deed is taken to be as 15.11.2015 or 05.11.2015. Neither the nature of the suit is being changed nor any benefit is sought to be claimed on the basis of the change of the said date and it is only for the purpose of proper and final adjudication of the case that the amendment is being sought and the same should have been allowed.

7. The Hon'ble Supreme Court in “**Rajesh Kumar Aggarwal and others Vs. K.K. Modi and others**”, reported as (2006) 4 Supreme Court Cases 385 has specifically observed that the cardinal principle for allowing an amendment is to see as to whether the same is necessary to



decide the real dispute between the parties and at that stage, the Court should not go into the correctness or falsity or the merits of the case in the amendment. The relevant portion of the said judgment is reproduced as under: -

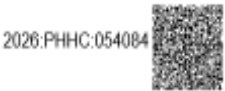
“xxx xxx xxx

18. As discussed above, the real controversy test is the basic or cardinal test and it is the primary duty of the Court to decide whether such an amendment is necessary to decide the real dispute between the parties. If it is, the amendment will be allowed; if it is not, the amendment will be refused. On the contrary, the learned Judges of the High Court without deciding whether such an amendment is necessary have expressed certain opinions and entered into a discussion on merits of the amendment. In cases like this, the Court should also take notice of subsequent events in order to shorten the litigation, to preserve and safeguard the rights of both parties and to subserve the ends of justice. It is settled by a catena of decisions of this Court that the rule of amendment is essentially a rule of justice, equity and good conscience and the power of amendment should be exercised in the larger interest of doing full and complete justice to the parties before the Court.

19. 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.

xxx xxx xxx”

8. Keeping in view the above-said facts and circumstances, the



present revision petition is allowed and the impugned order dated 21.08.2023 (Annexure P-7) is set aside and the application filed by the petitioner for amendment is allowed. The same is however subject to the petitioner depositing an amount of Rs.15,000/- as cost, within a period of two weeks from today and on deposit of the said cost, the same would be released to the respondent. In case the said amount is not deposited within the aforesaid period, then the present civil revision petition would be deemed to have been dismissed.

9. Needless to say that the trial Court would grant an opportunity to the respondent to file amended written statement to the said amended plaint.

April 08, 2026
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes