



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

CR-7218-2019 (O&M)
Reserved on : 29.04.2026.
Pronounced on : 01.07.2026.
Uploaded on: 01.07.2026.

Meenu Malhotra

....Petitioner

V/s

Jasbir Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rajesh Narang, Advocate
for the petitioner.

Mr. Ashish Gupta, Advocate
for the respondent.

VIKRAM AGGARWAL, J. (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 04.10.2019 (Annexure P-5) passed by the Court of Civil Judge (Junior Division), Chandigarh, whereby the application moved by the petitioner-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure (for short 'CPC'), seeking amendment of the plaint, was dismissed.

2. The facts, as emanating, are that a suit for permanent prohibitory injunction was instituted by the petitioner-plaintiff (Meenu Malhotra) against the respondent-defendant (Jasbir Singh), restraining him from causing any interference in the peaceful and continuous possession of the petitioner-plaintiff over the plot (fully described in the plaint) situated within the *abadi deh* of Village Burail, U.T., Chandigarh (hereinafter referred to as the suit property).

2.1 The case set up was that the suit property had been purchased by her from one Amrik Singh S/o Hari Singh vide registered sale deed dated

21.04.1994 and she had been in physical possession of the same since then. It was averred that the respondent-defendant had no concern either with the ownership or possession of the suit property but he had intentions of encroaching upon the same. Despite repeated requests, he did not agree, as a result of which the suit (Annexure P-1) was instituted.

3. The suit was opposed by way of a written statement (Annexure P-2) in which a stand was taken that the suit property was owned by one Joginder Singh, Kartar Singh, Gurdev Singh and Baldev Singh to the extent of 1/4th share each. However, Joginder Singh alienated the suit property to one Amrik Singh vide registered sale deed dated 24.07.1991. When Kartar Singh, Gurdev Singh and Baldev Singh came to know about the same, they filed a suit for declaration against Joginder Singh and Amrik Singh which was decreed on 10.03.1995 and the sale deed was executed.

3.1 It was averred that an appeal was preferred by Joginder Singh against the said decision but the same was dismissed on 09.04.1999.

3.2 During the pendency of the suit, Amrik Singh, in connivance with the petitioner-plaintiff, alienated the suit property to the plaintiff vide register sale deed dated 21.04.1994.

3.3 A stand was also taken that on 24.09.2015, 3/4th of the suit property had been got transferred by the respondent-defendant in his name vide gift deed and had therefore become its owner. Under the circumstances, dismissal of the suit was prayed for.

4. Faced with the situation, the petitioner-plaintiff filed an application (Annexure P-3) seeking to make suitable amendments in view of the averments made in the written statement.

5. The application was opposed by way of a reply (Annexure P-4). Apart from averring that the application was belated, it was averred that the sale deed dated 21.04.1994 had already been challenged by the respondent-defendant in another civil suit which was pending. All other averments were denied.

6. By way of the impugned order dated 04.10.2019 (Annexure P-5), the said application was dismissed, leading to the filing of the present revision petition.

7. Learned counsel for the parties were heard.

8. It was strenuously urged by learned counsel for the petitioner that the trial Court had committed a manifest error by dismissing the application for amendment of the plaint. It was submitted that the trial Court did not consider the fact that the application had been moved at the earliest possible opportunity after the filing of the written statement but it was the respondent-defendant who did not file reply to the same for a long time. It was also argued that the trial Court failed to consider the fact that the amendments sought to be made were essential for the just decision of the case and that apart from seeking the amendments, the petitioner-plaintiff had no other remedy. It was argued that filing another suit would amount to unnecessary multiplicity of litigation. In support of his contentions, learned counsel placed reliance upon the judgment of a Coordinate Bench in the case of ***Smt. Prem Lata Vs. Baljeet and others, 2024 (1) RCR (Civil) 10.***

9. *Per contra*, it was submitted by learned counsel for the respondent that there is no illegality in the impugned order. It was argued that another suit had already been filed in which the sale deed executed in favour of the petitioner have been challenged and that the petitioner could very well lead evidence in that case.

10. I have considered the submissions made by learned counsel for the parties.

11. In the case of ***Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited & Anr. [Civil Appeal No.5909 of 2002 arising out of SLP (C) No.22443 of 2019 decided on 01.09.2022]*** their Lordships of the Supreme Court 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 pin-

pointedly 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)".

12. Reverting to the facts of the present case, the suit was instituted on 05.05.2016, the written statement was filed on 16.05.2016 and the application for amendment was moved on 30.05.2016. The reply to the same was filed on 08.02.2019. Under the circumstances, the trial Court committed a manifest error by observing that the application had been filed at a belated stage. In fact the application had been filed at the very initial stage.

13. By way of the application, no doubt, extensive amendments were sought to be made and challenge was laid to the decree and gift deed. However, it has to be borne in mind that in the written statement, many such facts were pleaded which, as per the stand taken by the petitioner-plaintiff, were not in her notice. Under the circumstances, she rightly moved the application for amendment. No doubt, the nature of the suit had changed. However, it had changed, on account of the facts which had emanated from the written statement and not on account of some facts introduced by the petitioner-plaintiff. In the case of '***Smt. Prem Lata Vs. Baljeet and others***' (**supra**), a Coordinate Bench of this Court was faced with a somewhat similar situation. In that case also the suit had been filed on 16.08.2013, the written statement on 19.09.2013 and the application for amendment on 31.03.2015. Though the petitioner-plaintiff had been remiss in not filing the application earlier, the Coordinate Bench held that when a will had been introduced in the written statement, its validity was to be challenged and, therefore, the application for amendment should not have been dismissed. This Court is in agreement with the said view taken by the Coordinate Bench. Still further, in the case of '*Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and another*' (*surpa*), it was held by the Apex Court that the amendments which are necessary for determining the real question in controversy, provided it does not cause prejudice or injustice to the other side, should be allowed. In the present case also, in the considered opinion of this Court, the amendments are essential for determining the real question in controversy, especially when a specific

stand has been taken in the written statement. It would be difficult for the Court also to give a finding on the stand taken in the written statement in the absence of the stand of the petitioner-plaintiff. The question of limitation, if it arises, can always be decided at the final stage by framing an issue, based upon the pleadings of the parties and the evidence led qua the same.

14. The aforesaid discussion leads this Court to the conclusion that the impugned order is not sustainable and the amendment was erroneously declined. Consequently, the instant revision petition is allowed, the impugned order is set aside and the application for amendment is allowed. As the matter remained pending since 2019 before this Court, the trial Court is requested to make earnest efforts to expeditiously decide the matter.

15. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on 01.07.2026

Mani Kumar

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