

CR-6145-2025

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2026:PHHC:009667



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-6145-2025

Date of decision : 22.01.2026

Raghubinder Singh

... Petitioner

Versus

Gurmeet Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Ridhi Bansal, Advocate,
Ms.Sidhi Bansal, Advocate and
Mr.Sunny Deep Joneja, Advocate
for the petitioner.

Mr.Jagdish Manchanda, Senior Advocate with
Mr.Nischal Chetanya Manchanda, Advocate and
Mr. Vipul Thakur, Advocate
for respondents no. 1 and 2.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 19.07.2025 (Annexure P-1) passed by the Civil Judge (Jr.Div.), Karnal, vide which the application filed by the petitioner (plaintiff) under Order 6 Rule 17 CPC has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that the petitioner had filed a civil suit on 20.01.2025 for permanent injunction and



in the said civil suit, it had been stated in paragraph no. 1 that the plaintiff was the owner of land measuring 0B-11B comprised in khewat no.1000, khatoni no.1554, khasra no.11773/5466/2/1 (0-11) and khewat no.4144, khatoni no.6935 khasra no.5468/2 situated at Kasba Karnal, District Karnal, vide jamabandi for the year 2019-2020. It was further stated that defendant no.1 and 2 had, as per the case set up by them, purchased land measuring 50 square yards in the land measuring 0B-7B comprised in khewat no.990, khatoni no.1541, khasra no.11773/5466/2/2(0-7) situated at Kasba Karnal, District Karnal, vide jamabandi for the year 2019-2020. It is argued that the land of the defendants was completely different from the land of the plaintiff but since the defendants were trying to interfere in the possession of the plaintiff and were also wanting to raise construction over the property of the plaintiff, the said suit was filed.

3. It is submitted that thereafter the application filed by the plaintiff under Order 39 Rules 1 and 2 CPC was allowed and the injunction was granted in favour of the petitioner (plaintiff) and since after the passing of the said restraint order, the defendants had raised construction of a shop over the land of which the petitioner (plaintiff) was the owner and the defendants had no right and thus, the petitioner moved an application under Order 6 Rule 17 CPC to incorporate the said fact which had occurred during the pendency of the suit. It is argued that by virtue of the impugned order, the said application has been dismissed, although the amendment sought is necessary for the proper and final adjudication of the case and to avoid



multiplicity of the litigation. Reliance in this regard has been placed on 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***. It is further submitted that the case is at the initial stage, as issues had not been framed at the time when the application was filed and till date issues have not been framed and thus, the trial has not commenced. It is thus prayed that the present revision petition be allowed and the impugned order be set aside.

ARGUMENTS ON BEHALF OF RESPONDENTS NO.1 AND 2

4. Learned senior counsel for respondents no.1 and 2 (defendants No.1 and 2) has submitted that the impugned order has been passed in accordance with law and deserves to be upheld as the petitioner (plaintiff) by virtue of the impugned amendment wants to change the nature of the suit. It is submitted that a false plea has been taken by the plaintiff in the amendment application that the construction has been raised by defendants no.1 and 2 on the property belonging to the plaintiff, whereas the said construction has been raised over the land which belongs to defendants no.1 and 2. It is submitted that the amendment is neither necessary nor required for the adjudication of the case.

ANALYSIS AND FINDINGS

5. 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



19.07.2025, vide which the application filed by the petitioners under Order 6 Rule 17 CPC has been dismissed, is against law and deserves to be set aside for the reasons stated hereinafter.

6. It is not in dispute that the petitioner (plaintiff) had filed a suit for permanent injunction on 20.01.2025 and in the said suit, the area of which the petitioner was owner, was specifically stated in paragraph no.1 of the plaint. Similarly the area of which defendants no.1 and 2 were alleging that they had become owner, was also specifically stated in paragraph no.2 of the plaint and it was averred that the said two properties were different. It was the case of the petitioner (plaintiff) that the defendants no.1 and 2 wanted to raise construction over the suit land which was in the ownership of the petitioner and thus, a prayer for injunction was made. A written statement was filed by defendants no.1 and 2. On 01.02.2025, the trial Court had granted injunction in favour of the petitioner. The relevant portion of the said order is reproduced hereinbelow:-

“6. Intelligibly, it is settled proposition of law that the present suit has been filed by plaintiff for permanent injunction against the defendant no.1 & 2. As plaintiff is claiming restraint against the defendant no.1 & 2 from construction over the suit property, which is owned and possessed by the plaintiff. It is pertinent to note that defendant no.1 & 2 have not denied the ownership of plaintiff over the suit property and claimed their ownership and possession over the property mentioned in para no.2 of the plaint and claimed of construction over their property, thereby refuting the claim of the plaintiff. However, plaintiff has claimed that defendant no.1 & 2 are raising construction over the suit property and placed demarcation report on 31.01.2025, which mentions the ongoing construction over the suit property. It is pertinent to note that ownership and possession are not



disputed by either party, however, dispute is regarding construction over the suit property, which is under the ownership of the plaintiff, to which defendant no.1 & 2 have claimed of raising construction over their property only. Hence, it shows prima facie case with regard to suit property lies in the favour of plaintiff /applicant. Balance of convenience is tilted in favour of applicant/plaintiff, who shall suffer irreparable loss or injury if construction is raised over the suit property. Therefore, defendants no.1 & 2 are restrained from raising any construction beyond their property/share, as mentioned in para no.2 of the plaint and this direction will not restrain defendants no.1 & 2 from raising any construction over their property as mentioned in para no.2 of the plaint.

7. *In view of the aforesaid discussion, the present application under Order 39 Rule 1 and 2 read with Section 151 of CPC is hereby partly allowed. **Thereby, defendants no. 1 & 2 are restrained from raising any construction beyond their property/share, as mentioned in para no.2 of the plaint and this direction will not restrain defendants no.1 & 2 from raising any construction over their property as mentioned in para no.2 of the plaint.** Both the parties are directed to comply with this order, till the final decision of the present suit.*”

It is not disputed before this Court that the said order has not been challenged further.

7. On 27.03.2025, prior to the issues having been framed, the petitioner (plaintiff) had filed application for amendment wanting to add paragraph no.4A and substitute para no. 5 and the prayer clause in the plaint. In the said amendment application, it was stated that during the pendency of the suit and even after passing of the restraint order by the Court, the defendants had illegally and forcibly raised construction of a shop over the land which was in ownership of the petitioner (plaintiff) and regarding which defendants no.1 and 2 had no concern and that the cause of



action regarding the same had occurred after the construction had been raised. A prayer was sought to be made for mandatory injunction directing the defendants to remove / demolish their illegal construction. The said application was opposed by the defendants no.1 and 2 by filing a reply. The trial Court vide order dated 19.07.2025 had dismissed the said application by observing that there was nothing on record to show that defendants no.1 and 2 had disobeyed the order dated 01.02.2025. The said order is against settled law.

8. It is a matter of settled law that, at the time of deciding the application for amendment under Order 6 Rule 17 CPC, the Court is not required to adjudicate upon the plea proposed to be incorporated / added and is primarily required to consider as to whether the amendments are necessary for determining the real question in controversy. The Hon'ble Supreme Court of India in the case of ***Rajesh Kumar Aggarwal & Ors.(supra)*** has held as under:-

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.***

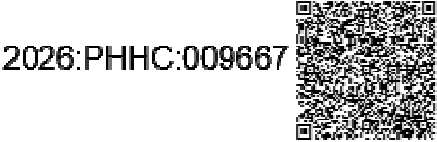
9. The amendment in the present case is very necessary for proper and final adjudication of the case and in order to avoid multiplicity of the litigation. The suit land regarding which injunction is sought in the suit has been specifically mentioned in the plaint. It is the case of the plaintiff that during the pendency of the suit, defendants no.1 and 2 have raised construction on the suit land. It is the defence of defendants no.1 and 2 that construction raised is on the land which is in the ownership of defendants no.1 and 2. The question as to whether the construction which has been raised is on the land owned by the plaintiff or by the defendants no.1 and 2, is a moot issue which is to be decided during the course of trial. At the stage of amendment, the Court is not required to adjudicate on merits of the amendment sought. Mere grant of amendment does not mean that the relief which is sought has been allowed. The plaintiff has a right to allege, aver and contest the fact that during the pendency of the case, the construction has been raised by defendants no.1 and 2 on the property owned by the



plaintiff. By not allowing the amendment, the said right of the plaintiff is sought to be taken away. In case the plaintiff is able to prove the averments made in the amendment application as well as in the plaint, then, as a necessary consequence, relief of mandatory injunction will be required to be granted to the plaintiff. Not allowing the application for amendment would cause serious prejudice to the rights of the petitioner (plaintiff) and the suit of the petitioner (plaintiff) would be liable to be dismissed solely on the ground of technicality i.e., non-seeking of the relevant relief. The issues have not been framed in the present case and thus, the trial has not commenced. The defendants would be given due opportunity to file written statement to the amended plaint and it would be open to the defendants to raise all pleas including the plea that the construction raised by defendants no.1 and 2 is on their property and not on the property of the plaintiff and all the aspects would be considered during the course of trial. By virtue of the amendment, the nature of the suit is not being changed and rather necessary relief, the cause of action for which, as per the plaintiff has arisen during the pendency of the case, is sought to be claimed.

10. Keeping in view the above said facts and circumstances, the revision petition is allowed and the order dated 19.07.2025 is set aside and the application filed by the plaintiff for amendment of plaint under Order 6 Rule 17 CPC is allowed. Defendants no.1 and 2 would be granted due opportunity to file written statement to the amended plaint.

11. It is made clear that this Court has not opined on the merits of



the case and it would be open to both the parties to lead all evidence in support of their amended plea during the course of trial and the trial Court would adjudicate the same independently in accordance with law.

(VIKAS BAHL)
JUDGE

January 22, 2026.
Davinder Kumar

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