

CMs-23010-23011-CII-2025 in/and -1-
CR-6180-2022

2026.PHHC:057886



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

(204)

**CMs-23010-23011-CII-2025 in/and
CR-6180-2022**

Date of decision: - 17.04.2026

Inderjit Kaur

....Petitioner

Versus

Manjit singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Dhivya Jerath, Advocate
for the petitioner.

Mr. Vipin Mahajan, Senior Advocate, with
Ms. Chandanpreet Kaur Ahluwalia, Advocate
for the respondents.

VIKAS BAHL, J. (ORAL)

CM-23011-CII-2025

Present application has been filed under Section 5 of the
Limitation Act for condonation of delay of 47 days in filing the
application for restoration of the main petition.

For the reasons stated in the application, which is duly
supported by an affidavit, the same is allowed and the delay of 47 days in
filing the application for restoration of the main petition is condoned.

CM-23010-CII-2025

Present application has been filed under Order 41 Rule 19



**CMs-23010-23011-CII-2025 in/and -2-
CR-6180-2022**

CPC read with Section 151 CPC for restoration of the above-mentioned revision petition.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed. The order dated 11.08.2025 is recalled and the main revision petition is restored to its original number.

CR-6180-2022

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for quashing the order dated 21.05.2022 (Annexure P-1) passed by the Civil Judge (Junior Division), Batala, vide which the application filed by the petitioner under Order 6 Rule 17 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 declaration to the effect that the plaintiff was co-sharer/co-owner to the extent of 1/3 share of the property in question, which was owned by her mother Iqbal Kaur. The case in the plaint was set up on the basis of natural succession and it was pleaded that the Will in favour of defendants No.3 to 5 was illegal, ultravires, null and void. It is further submitted that inadvertently some other land which was also owned by the said Iqbal Kaur was left out from the suit land and thus, an application for amendment was filed to include the said land. It is argued that the said application for amendment has been dismissed without considering the fact that the said amendment is very necessary for the proper and final adjudication of the case and in case the said amendment



is not allowed, then, the same would lead to multiplicity of litigation. It is submitted that since it is the suit of the petitioner, thus, the delay on account of the said amendment would primarily prejudice the petitioner.

3. Learned senior counsel for the respondents, on the other hand, has opposed the present petition and has submitted that the amendment application has been filed at the stage of plaintiff evidence and has been rightly dismissed by the trial Court. It is further submitted that on account of the said application being filed, substantial delay has been caused in finally adjudicating the case. It is stated that in fact the case was earlier dismissed in default and was restored after much delay. It is submitted that at any rate, heavy cost should be imposed upon the petitioner in case the said amendment is to be allowed.

4. This Court has heard learned counsel for the petitioner as well as learned senior counsel for the respondents and has perused the paper-book and is of the opinion that the present revision petition deserves to be allowed subject to certain conditions and for the reasons stated hereinafter.

5. It is not disputed that the suit was filed by Inderjit Kaur claiming herself to be the legal heir of Iqbal Kaur to the extent of 1/3rd share of her estate. It was further the case of the petitioner/plaintiff that the Will in favour of defendants No.3 to 5 was illegal, ultra vires, null and void. In the headnote of the plaint, seven pieces of land, which as per the case of the plaintiff were owned by Iqbal Kaur, were detailed to be the suit property. The petitioner filed an application under Order 6 Rule 17



read with Section 151 CPC for amendment of the plaint, in which it was stated that there was other land which was also owned by Iqbal Kaur and the said land should also be included in the suit land as the rights regarding the said land were also required to be determined. The detail of the said land had been mentioned in the application under Order 6 Rule 17 CPC. The said application for amendment was dismissed vide the impugned order.

6. 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”

7. The amendment in the present case is very necessary for the proper and final adjudication of the case. Since the claim in the plaint is based upon inheritance of Iqbal Kaur, it was necessary to have included all the properties owned by Iqbal Kaur in the plaint which by virtue of the amendment the plaintiff is seeking to do. The nature of the suit would remain the same and even the issues for adjudication would remain the same as it is the case of the defendants No.3 to 5 that there is a Will in their favour with respect to the land which was in the ownership of Iqbal Kaur. The delay caused on account of seeking the said amendment would also primarily prejudice the petitioner who is the plaintiff in the present case. At any rate, the respondents can be compensated with cost.

8. Keeping in view the above-said facts and circumstances, the present revision petition is partly allowed and the impugned order dated



21.05.2022 (Annexure P-1) is set aside and the application filed by the petitioner/plaintiff under Order 6 Rule 17 CPC for amendment is allowed. The same is however subject to the petitioner depositing an amount of Rs.30,000/- as cost, within a period of two weeks from today and on deposit of the said cost, the same would be released to the contesting respondents in equal proportions. 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 defendants would be given due opportunities to file amended written statement to the amended plaint.

April 17, 2026
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes