



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

232

CR-6900-2025 (O&M)

Date of decision : 20.03.2026

Anita Sanan and others

..... Petitioners

versus

Pawan Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Mandeep Singh Sachdev, Senior Advocate with
Ms. Mehar Sachdev, Advocate and
Mr. Rahul Sharma, Advocate
for the petitioners.

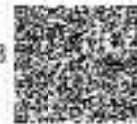
Ms. Nandini Gupta, Advocate
for respondent No.1.

None for respondents No.2 to 4.

PANKAJ JAIN, J. (Oral)

1. Present revision petition is directed against order dated 06.08.2025 (Annexure P-1) whereby application filed by the plaintiff seeking amendment of plaint under Order VI Rule 17 stands dismissed, holding that the proposed amendment, if allowed, shall amount to change in the nature of the suit.

2. Plaintiffs filed suit seeking decree of declaration to the effect that they are co-owners/co-sharers to the extent of 1/4 share in the suit property as detailed out in the headnote of the plaint, left behind by Bhim Sen son of Kundan Lal and Premwati wife of Bhim Sen. After notice was issued, defendants filed written statement propounding Will dated 31.08.2022 and Transfer Deed dated 29.06.2021 in their favour by Bhim Sen and Premwati respectively. The present application filed



under Order XI Rule 17 was thereafter moved, whereby plaintiff No.3 Radha Handa claimed of having discovered Will executed by her parents, namely Bhim Sen and Premwati bestowing rights in her favour. Accordingly, she sought amendment in the plaint to the following effect:-

“(A) The words **"plaintiffs are co owners/co sharers to the extent of 1/4th share each"** from the 2nd and 3d line of the head note of the plaint be allowed to be deleted and in its place, the following words be allowed to be incorporated:

"Plaintiff no. 3 is exclusive owner and in possession of the following properties being legatee on the basis of WILL dated 05.08.2019 executed by her parents namely Sh. Bhim Sen and Smt. Premwati which was duly registered with the office of Sub Registrar, Jalandhar on 19.01.2023".

Similarly, following words be allowed to be incorporated prior to 132 Marlas as mentioned in head note (b) of the plaint:

"41 Marlas was the ownership of Smt. Premwati and 41 Marlas was the ownership of Sh. Bhim Sen out of"

And after amendment, amended portion of the Head Note of the plaint will read as under:

Suit for Declaration to the effect that the Plaintiff no.3 is the exclusive owner and in possession of the following properties being legatee on the basis of WILL dated 05.08.2019 executed by her parents namely Sh. Bhim Sen and Smt. Premwati which was duly registered with the office of Sub Registrar, Jalandhar on 19.01.2023

(b) Godown situated at Shah Sikandar Road, Jalandhar measuring 41 Marlas was the ownership of Smt. Premwati and 41 Marlas was the ownership of Sh. Bhim Sen out of 132 Marlas and shown red in the site plan attached and bounded as under:

East	:	Road
West	:	Tobri Mohalla
North	:	Hanuman Ji Mandir
South	:	Chawla Sales Corporation”



3. By way of proposed amendment, plaintiff No.3 now seeks declaration to the effect that she has become exclusive owner of some of the properties on the strength of the Will. The application stands dismissed by the Trial Court observing that the proposed amendment having an effect of altering the nature of the suit, cannot be allowed.

4. Learned senior counsel appearing for the petitioner has assailed the order passed by the Trial Court. He submits that the amendment is based upon a subsequent discovery of WILL. Trial is yet to commence. The Trial court erred in declining amendment holding that the proposed amendment shall alter the nature of the suit. The suit initially was filed whereby, all the plaintiffs claimed to be co-owners/co-sharers on the basis of natural succession. The prayer necessarily remains the same, apart from effect of Will now propounded by plaintiff No.3. He thus submits that the Trial Court erred in dismissing the application filed by the plaintiff under Order VI Rule 17 CPC.

5. *Per contra*, Ms. Nandini Gupta appearing for respondent No.1 would submit that the present amendment has been moved only after defendants filed their written statement. In order to counter the defence raised therein, present amendment has been sought, which is impermissible under law.

6. I have heard counsel for the parties and have carefully gone through the records of the case.

7. The law with respect to amendment in the pleadings has been elaborately explained by Supreme Court in the case of ***Life Insurance Corporation of India V. Sanjeev Builders Private Limited and another, Civil Appeal No.5909 of 2022 dated 01.09.2022*** and the



proposition was culled out observing as under :-

“70.....(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 mala fide, 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).”

8. In light of above, this Court cannot ignore the fact that the trial is yet to commence. Thus, disallowing the amendment at this stage, would only lead to multiplicity of litigation. The observation made by Trial Court with respect to alteration of the nature of the suit is misconceived. The initial suit was based upon succession and the nature remains the same even after propounding of Will by plaintiff No.3. Only source of succession stands altered now.

9. In view of above, this Court finds that the order passed by the Trial Court cannot be sustained and the same is hereby set aside. The amendment application filed by plaintiff No.3 is allowed, subject to payment of cost of Rs.20,000/- to be paid to the defendants.

10. Disposed off, accordingly.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

20.03.2026

Dinesh

Whether speaking/reasoned :
Whether Reportable :

Yes
No