

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

(111)

CR-7368-2025 (O&M)
Date of Decision: **10.03.2026**

HARBHAJAN SINGH

... Petitioner

Versus

GURBACHAN SINGH AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner.

Mr. B.B.S. Randhawa, Advocate
for respondent No.1.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been instituted by the petitioner under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court, assailing the order dated 12.09.2025 (Annexure P-7) passed by the learned Civil Judge (Junior Division), Batala, whereby the application preferred by the petitioner–plaintiff seeking framing of additional issues came to be dismissed.

2. The factual background, in brief, is that the petitioner–plaintiff instituted a suit for declaration, asserting himself to be the owner in possession of the suit land, along with the consequential relief of permanent injunction, restraining the defendants from interfering with the alleged joint possession of the plaintiff, dispossessing him from the suit

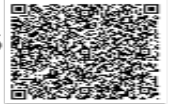


property, or otherwise alienating the same. In the alternative, the plaintiff also sought the relief of joint possession. It was further pleaded that any exchange deed, if alleged or relied upon by the defendants, is illegal, null and void, ineffective against the rights of the plaintiff, and the result of fraud and conspiracy.

2.1. Defendant–respondent No.1, upon appearance, filed his written statement asserting that he had become owner in possession of the suit land measuring 15 kanals 12 marlas on the basis of an exchange effected with the plaintiff, and that Mutation No.3724 had been duly sanctioned on the basis of such exchange.

2.2. The learned Trial Court, after considering the pleadings of the parties, framed issues vide order dated 27.05.2025. Thereafter, the plaintiff–petitioner moved an application under Order XIV Rule 5 of the Code of Civil Procedure, 1908 (for short, “CPC”), seeking framing of additional issues, inter alia, on the ground that the defendants had taken a specific plea of having become owners in possession of the suit land on the basis of an alleged exchange with the plaintiff. The said plea having been categorically denied by the plaintiff, it was contended that no specific issue had been framed with respect thereto, and that for the proper and effective adjudication of the controversy, issues regarding the defendants’ claim of ownership by way of exchange and the alleged exchange being illegal, null and void, inoperative, and vitiated by fraud were required to be framed.

3. The defendants opposed the said application and, by way of reply, asserted that the issues already framed by the learned Trial Court



sufficiently encompassed the controversy between the parties, including the question relating to the plaintiff's claim of ownership and possession as well as the plea regarding the alleged exchange between the parties. Upon hearing the parties, the learned Civil Judge dismissed the application.

4. Aggrieved by the aforesaid order, the petitioner has instituted the present revision petition. Notice of the petition was issued to the respondents. However, no one appeared on behalf of respondent No.2, whereas respondent No.1 was represented through counsel, Mr. B.B.S. Randhawa, Advocate.

5. I have heard the learned counsel appearing for the contesting parties and have carefully perused the paper-book and the material placed on record.

6. The learned Civil Judge has dismissed the application by recording findings in paragraph No.5 of the impugned order. At this stage, it would be apposite to note that the provisions of Order XIV Rule 1 CPC stipulate that issues are required to be framed upon material propositions of fact or law which are affirmed by one party and denied by the other. The relevant provisions of Order XIV Rule 1 CPC read as under:-

“ORDER XIV

Settlement of Issues and Determination of Suit on Issues of Law or on Issues agreed upon

1. *Framing of issues.—(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.*



- (2) *Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.*
- (3) *Each material proposition affirmed by one party and denied by the other shall form the subject of distinct issue.*
- (4) *Issues are of two kinds:*
 - (a) *issues of fact,*
 - (b) *issues of law.*
- (5) *At the first hearing of the suit the Court shall, after reading the plaint and the written statements if any, and 1 [after examination under rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.*
- (6) *Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.”*

6.1. The Civil Court seized of the suit is vested with the authority to amend the issues already framed or to frame additional issues, where such course is considered necessary for the just and effective determination of the controversy between the parties, in terms of the provisions contained in Order XIV Rule 5 of the CPC. The relevant provisions of Order XIV Rule 5 CPC are reproduced here-in-below:- :-

“5. Power to amend and strike out, issues.—(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or



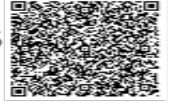
additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.]”

6.2. A perusal of the pleadings of the parties reveals that the respondents–defendants have taken a specific plea in their written statement asserting that respondent No.1 has become owner in possession of the suit land on the basis of an exchange allegedly effected with the petitioner–plaintiff, and that mutation has also been sanctioned in his favour on the strength of the said exchange. The said assertion, however, has been categorically and specifically denied by the petitioner–plaintiff.

6.3. The petitioner–plaintiff has further pleaded that the alleged exchange, if any, is illegal, null and void, vitiated by fraud, and wholly ineffective against his rights. In the backdrop of the aforesaid rival pleadings, the issues framed by the learned Civil Judge are reproduced hereunder:-

- 1.) Whether the plaintiff is entitled to the relief of partition by meet and bounds? OPP*
- 2.) Whether the plaintiff is entitled to the relief of permanent injunction as prayed? OPP*
- 3.) Whether the plaintiff is entitled to the alternative relief for joint possession? OPP*
- 4.) Whether the suit is not maintainable in the present form? OPD*
- 5.) Whether suit of the plaintiff is time barred? OPD*
- 6.) Whether suit of the plaintiff is bad for non-joinder and misjoinder of necessary party? OPD*



7.) *Whether the plaintiff has concealed the material facts from the court? OPD*

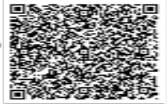
8.) *Whether the suit is not properly valued, stamped and verified for the purpose of court fee? OPD*

9.) *Relief*

6.4. A careful perusal of the aforesaid issues reveals that the learned Civil Judge has framed Issues No.1 to 3 primarily with respect to the reliefs claimed by the petitioner–plaintiff. However, no issue has been framed with regard to the material proposition of fact asserted by the defendants and specifically denied by the plaintiff, particularly concerning the plea of ownership allegedly acquired by the defendants on the basis of the exchange.

6.5. In the considered view of this Court, the impugned order suffers from a material illegality. The learned Civil Judge has failed to exercise the jurisdiction vested in it under the provisions of Order XIV Rule 5 of CPC, which empowers the Court to frame additional issues where such issues are necessary for the just and effective adjudication of the controversy between the parties.

6.6. Consequently, this Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, is justified in interfering with the impugned order so as to rectify the aforesaid material illegality. Since certain material issues essential for proper and complete adjudication of the dispute have not been framed by the learned Civil Judge, the learned Trial Court is directed to frame the following additional issues:-



➤ *“Whether the defendants are owners in possession of the suit land on the basis of exchange, mutation of which has been sanctioned vide No.3724? OPD*

➤ *Whether exchange is illegal, null-&-void and is result of fraud and is ineffective against the rights of the plaintiff? OPP”*

7. In view of the foregoing observations and reasons recorded here-in-above, the present revision petition stands **allowed**.

8. It is, however, clarified that the observations made here-in-above are purely confined to the adjudication of the present petition and shall not be construed as an expression of opinion on the merits of the underlying dispute. All such observations are limited strictly to the determination of the issue arising in the present proceedings. Nothing contained in this order shall prejudice, affect, or influence the rights, claims, or contentions of the parties in the main proceedings, nor shall the same be treated as a final determination of any substantive question of fact or law involved therein.

9. Since the principal matter stands finally disposed of, all pending miscellaneous application(s), if any, also stand disposed of accordingly, and no further orders are called for in that regard.

10.03.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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