



CR-1308-2022 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision: 04.04.2025

Neeraj Devi Panwar

... Petitioner

Vs.

Ravinder and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vishal Sharma Haritwal, Advocate (through VC)
for the petitioner.

None for respondent No.1 and
LRs of respondent No.3 despite service.

Mr. S. K. Tripathi, Advocate,
for respondents No. 2 and 4.

SUVIR SEHGAL J.

1. Assailing order dated 06.09.2021, Annexure P-4, whereby an application filed under Order 6 Rule 17 CPC for amendment of the plaint has been declined, petitioner/plaintiff has approached this Court by way of instant revision petition.

2. Mr. Vishal Sharma Haritwal, Advocate, submits that petitioner purchased the suit plot vide sale deed dated 19.02.2007 and constructed a residential house. He submits that as the dimensions of

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the plot were erroneously mentioned in the sale deed, respondent No.1 tried to encroach upon the property. Petitioner gave a complaint dated 15.04.2021 to the police, who did not take any action and filed a suit for permanent injunction for restraining the respondents from encroaching upon the suit plot. He asserts that there was a typographical error in the plaint inasmuch as it was mentioned that cause of action arose on 19.02.2007 instead of 15.04.2021 and to correct this error, an application for amendment was filed, which has been erroneously rejected by the trial Court vide the impugned order.

3. Per contra, Mr. S. K. Tripathi, counsel for respondents No. 2 and 4 has opposed the petition and has submitted that the petitioner is trying to change the nature of the suit as well as the cause of action. It is his case that the petitioner is trying to improve upon the original version, which cannot be permitted under the garb of amendment of plaint.

4. I have heard counsel for the parties and considered their respective submissions besides examining the documents appended with the petition.

5. Para 8 of the plaint filed by the petitioner reads as under:-

“8. That cause of action arose on 19.02.2007, when the plaintiff purchased the said plot from defendant No.2 and again on 15.04.2021, defendants tried to encroach upon the said portion

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of the plot/house of the plaintiff and finally declined the genuine request of the plaintiff and the cause of action is still subsisting. Hence, this suit.”

6. By way of proposed amendment, petitioner intends to amend the above averment by substituting it with the following paragraph.

“8. That the plaintiff purchased the suit property on 19.02.2007 and the cause of action to file the suit arose on 15.04.2021 when defendants taking undue advantage of the (misprinted) dimensions in the registry of the plaintiff tried to encroach upon the red colour portion of the house of the plaintiff and finally declined the genuine requests of the plaintiff. The cause of action is still subsisting as still the defendants, despite of complaints before police, did not stopped (sic) themselves in creating obstruction of the peaceful possession of the plaintiff’s property.”

7. It is evident from the above reproduction of the proposed amendment that there is an inadvertent typographical mistake in the plaint, which the petitioner intends to correct by way of proposed amendment. The proposed amendment neither changes the nature of the suit nor does it change the cause of action. Suit was instituted by the petitioner on 16.04.2021 and upon being served, respondents filed their written statement as well as reply to the miscellaneous



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application along with a counter claim on 31.05.2021. Application for amendment has been moved by the petitioner on 20.07.2021. From the interim orders, it is cleared that the suit is at an initial stage, issues have not been framed and the trial is yet to commence. Proviso to Order 6 Rule 17 CPC, would not be a hindrance to the acceptance of the application for amendment of the plaint. The amendment would enable the Court to adjudicate the controversy between the parties and is necessary to determine the civil suit on merits. The objective of Order 6 Rule 17 CPC is to enable the parties to correct any typographical or inadvertent mistake in the plaint provided such an alternation is brought about at an initial stage and there is no delay in approaching the Court for seeking the amendment. Trial Court has clearly erred in disallowing the application. Impugned order, therefore, cannot be sustained and is set aside.

8. Petition is allowed. Petitioner is permitted to amend the plaint. Amended plaint be filed before the trial Court on or before 05.05.2025. This will be subject to payment of costs of Rs.2500/- to the respondents.

04.04.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No