



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

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CR-363-2018 (O&M)
Date of Decision: 08.05.2025

Jagdish Singh

...Petitioner

V/s

Gurcharan Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. G.S. Virk, Advocate, for the petitioner.
Mr. A.S. Walia, Advocate for respondent No.1.
None for respondent No.2.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition assails the order dated 11.12.2017 (Annexure P-8) passed by the Court of Civil Judge (Sr. Divn.), Jagraon, vide which the application preferred by the petitioner-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short the "CPC") seeking to make an amendment in paragraph 9 of the plaint was dismissed.

2. The facts, as emanating from the revision petition, are that a suit (Annexure P-1) for declaration to the effect that the plaintiff-petitioner was the owner of land measuring 12 *kanals* 18 *marlas* (fully described in the plaint) situated in the area of Village Nangal Kalan, Tehsil Raikot, District Ludhiana after setting aside the sale deed dated 11.11.2004 alleged to have been executed by the plaintiff-petitioner in favour of respondent No.1-defendant No.1 was filed. Relief of joint possession and consequential relief of permanent injunction was also



prayed for. The said suit was opposed by way of written statement (Annexure P-2).

3. Initially, the suit was dismissed vide judgment and decree dated 30.01.2016 (Annexure P-3) passed by the Court of Civil Judge (Jr. Divn.), Jagraon only on the preliminary issue of limitation. In an appeal preferred against the said judgment and decree, the judgment and decree passed by the trial Court was set aside vide judgment and decree dated 07.11.2017 (Annexure P-4) passed by the Court of Addl. District Judge, Ludhiana and the matter was remitted to the trial Court for a fresh decision holding that the trial Court was supposed to record findings on all issues. After the said judgment, an application under Order 6 Rule 17 CPC was moved by the plaintiff-petitioner seeking to make amendment in paragraph 9 of the plaint. The said amendment was opposed by way of reply (Annexure P-7) and ultimately the same was dismissed vide the impugned order dated 11.12.2017.

4. Learned counsel for the parties have been heard.

5. During the course of arguments, learned counsel for the petitioner submits that the petitioner restricts his claim to the observations made by the trial Court as regards the applicability of Section 6 of the Limitation Act, 1963 (for short the "Limitation Act"). He submits that there was no occasion for the trial Court to decide upon the applicability of the provisions of the Limitation Act while deciding the application for amendment and that the findings recorded by the trial Court as regards the applicability of Section 6 of the Limitation Act will affect the rights of the plaintiff-petitioner, for, the plaintiff-petitioner may take the said plea at the time of arguments.



6. Learned counsel for respondent No.1 very fairly concedes that the said findings recorded by the trial Court are not sustainable.

7. I have considered the submissions made by learned counsel for the parties, perused the paper book and have also gone through the impugned order.

8. While rejecting the application moved under Order 6 Rule 17 CPC, the learned trial Court held as under:-

“As far as Section 6 of Limitation Act is concern, the same is not applicable here, as the present suit was not filed by the plaintiff/disable person after ceasing his disability Section 6 of Limitation Act says that:

“where a person entitled to institute a suit or make an application for the execution of a decree is at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefore in the third column of the schedule.”

The case in hand has been filed without waiting an opportunity to the plaintiff provided under Section 6 of Limitation Act. As such Section 6 of Limitation Act is not applicable in this case. Hence, the application in hand stands dismissed.”

9. In the considered opinion of this Court, the trial Court should have limited the order on the application under Order 6 Rule 17 CPC and should not have commented upon the applicability of the provisions of Section 6 of the Limitation Act.

10. In view of the above and keeping in view the statements made by learned counsel for the parties, the said findings recorded in the order dated 11.12.2017 are set aside and the order as regards dismissal of the application under Order 6 Rule 17 CPC is upheld.



11. The revision petition is accordingly disposed of.
Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

May 08, 2025
vcgarg

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No