

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

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CR-7313-2025(O&M)**Date of decision: 14.10.2025****Jagdev Singh & Another****...Petitioner(s)****Vs.****Gurdevi & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Harjaap Singh Arora, Advocate
for the petitioners.

*********NIDHI GUPTA, J.**

Present Civil Revision Petition has been filed by the plaintiff under Article 227 of the Constitution of India, for setting aside the order dated 23.09.2025 (Annexure P1) passed by the learned Civil Judge (Junior Division), Ludhiana in the Suit bearing No.CS/446/2020 titled as "Jagdev Singh & Another Vs. Gurdevi & Others" vide which the application under Order 6 Rule 17 read with Section 151 CPC for amendment by correction of names of defendant No.3 Shinder Kaur to Mohinder Kaur and defendant No.6 Jagdev Singh to Sukhdev Singh in heading of plaint has been dismissed.

2. Brief facts of the case are that the plaintiffs/petitioners had filed Civil Suit for declaration and permanent injunction on dated



29.01.2020. On 11.09.2025, the petitioners had filed the present application (Annexure P2) under Order 6 Rule 17 CPC for correction of the names of defendant No.3 Shinder Kaur to Mohinder Kaur, and defendant No.6 Jagdev Singh to Sukhdev Singh, in the heading of the plaint. The defendants No.3 to 6 had filed their reply dated 16.09.2025 (Annexure P5) to the said application for amendment filed by the petitioners. Vide the impugned order dated 23.09.2025 (Annexure P1), application of the petitioners has been dismissed with costs of Rs.1,000/-.

3. It is inter alia submitted by learned counsel for the petitioners/plaintiffs that the learned trial Court was in error in dismissing the application for amendment filed by the petitioners as it failed to appreciate that the petitioners had sought amendment merely for correction of names of defendants No.3 and 6 in the head note/Memo of Parties of the suit. The learned trial Court has failed to appreciate that there was a bona fide mistake of the petitioners in incorporating incorrect names of the said defendants No.3 and 6 in the Memo of Parties of the plaint. It is submitted that as soon as the said mistake came to the notice of the petitioners, the application for amendment was filed. It is argued that the said amendment would not have any effect on the nature of the suit or on the outcome of the case as neither any new pleadings are to be made, nor any new evidence is to be led. Moreover, the persons appearing on behalf



of the defendants No.3 and 6 are the same persons which the petitioners are seeking to correct/incorporate.

4. Ld. Counsel further submits that the learned trial court has failed to appreciate the fact that the petitioner is trying to bring on record the actual and true facts of the case as and when they came into its notice so that there should not be multiplicity of litigation. But the defendants no. 3 and 6 are concealing the actual and true facts since beginning from Ld. Trial Court, since as per the memo of parties/headnote, the defendant no. 3 is Ms. Shinder Kaur and defendant no. 6 is Sh. Jagdev Singh but the power of attorney, written statement filed on behalf of them, has been filed under the names of Mohinder Kaur and Sukhdev Singh. The Trial court without applying Judicial mind has taken on record said documents which should not have been taken on record by the trial court since no person by the name of Mohinder Kaur or Sukhdev Singh is there in the memo of parties/headnote which clearly shows malafide and misconduct on their part.

5. It is submitted that the learned trial court has failed to consider the fact that the defendants no. 3 and 6 namely Mohinder Kaur and Sukhdev Singh instead of disclosing the true facts to learned Trial Court about their identity being the legal heirs of Sh. Kewal Krishan rather they appeared by stepping in the shoes and under the disguise of Shinder Kaur and Jagdev Singh with malafide intention. It is submitted that even when the written statement was filed on behalf of defendant no. 4 and 6 instead



of taking an objection that Shinder Kaur and Jagdev Singh are not the legal heirs of Kewal Krishan rather they have admitted in their written statement that defendant no. 3 to 6 are the legal heirs of Sh. Kewal Krishan. This has been done by the defendants so that the litigation could never come to a logical end and the plaintiffs may be involved in endless round of litigations.

6. In support learned counsel relies upon judgment of Hon'ble Supreme Court in **Civil Appeal No.2431 of 2019** titled as "**Varun Pahwa Vs. Mrs. Renu Chaudhary**" decided on **01.03.2019**. Learned counsel accordingly prays for setting aside of the impugned order.

7. No other argument is made on behalf of the petitioners.

8. I have heard learned counsel and perused the case file in detail.

9. By way of the proposed amendment, the petitioners wish to correct the names of defendant No.3 Shinder Kaur to Mohinder Kaur and defendant No.6 Jagdev Singh to Sukhdev Singh in heading of plaint. Order 6 Rule 17 CPC dealing with amendment of pleadings reads as follows:-

"17. Amendment of pleadings. -The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."



10. A reading of the above provision shows that no doubt, amendment is to be permitted for the determination of the real controversy at hand. However, the said provision cannot be read in isolation of the proviso thereto, which categorically stipulates that “...*no application for amendment shall be allowed after the trial is commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.*” Thus, prior to permitting amendment, it is incumbent upon this Court to conclude that despite exercise of due diligence, the party seeking the amendment could not have pleaded the facts now sought to be incorporated.

11. In the facts of this case, this Court is unable to bring itself to the conclusion required as per law/ stipulated in the proviso. Admittedly, petitioners had filed the present suit on dated 29.01.2020; whereas, application for amendment has been filed more than five years thereafter on 11.09.2025 i.e. much after trial has commenced. The trial Court has clearly recorded in the impugned order that trial is “...*at its fag end...*”. No reasons have been given by the petitioners in the application to explain this delay. Even no reasons have been given in the application for amendment as to why the correct names of the defendants no.3 and 6 were not mentioned in the first instance, in the plaint. In fact, the application for amendment shows that there is no plea regarding due diligence. Admittedly, the application was not even supported by any affidavit of the petitioners. All that has been stated



by the petitioners in the application for amendment is that correct facts could not be mentioned due to inadvertent mistake. Needless to say, the above said reason constitutes no ground for permitting amendment; especially at this belated stage at the fag end of the trial. As per established tenets of law, inadvertence, oversight, or sheer carelessness as in the present case, constitute no ground for permitting amendment. By way of amendment, the petitioners cannot be permitted to fill the lacunae in their case. In the present case it cannot be ignored that even though the said facts were in the knowledge of the petitioner yet were incorrectly mentioned in the head note of the plaint due to 'inadvertence'. It is my considered view, that in such a situation, amendment cannot be permitted.

12. This Court is well aware of the precedent case law holding that in applications of such nature a liberal view ought to be taken. However, keeping in view the entirety of the above noted facts and circumstances of the case, this Court is not convinced to grant the prayer of the petitioners. I am supported in my view by recent judgment dated 29.2.2024, of the Hon'ble Supreme Court in **Basavaraj v. Indira (SC) : Law Finder Doc Id # 2510571** wherein it is held that: -

"Amendment of pleadings – Oversight cannot be accepted as a ground to allow any amendment in the pleadings at the fag end of the trial."



13. Reference may also be made to another judgment of the Hon'ble Supreme Court in **Pandit Malhari Mahale v. Monika Pandit Mahale, (SC) : Law Finder Doc Id # 1691426** wherein it is held as under: -

“Civil Procedure Code, 1908, Order 6, Rule 17 - Amendment of Plaint - Amendment application filed after evidence begun - In absence of any finding that Court is satisfied in spite of due diligence, party could not introduce amendment before commencement of trial - Therefore, amendment of plaint unsustainable and set aside.”

14. This Court in **Rati Ram v. Inder (P&H) : Law Finder Doc Id # 244372** has held as under:-

“Civil Procedure Code, 1908, Order 6, Rule 17 - Amendment of Pleadings - Amendment cannot be allowed as a matter of right - Amendment was not at all necessary to determine the real controversy between the parties - The application was not bona fide as such, it was only filed to delay the proceeding further when the suit remained pending for seven years - Amendment right decline.”

15. Again in **“K.B. Sharma Vs. Shri Keerti Karan Dharni” (P&H) Law Finder Doc ID # 205192**, this Court has held that: -

“A. Civil Procedure Code, 1908, Order 6, Rule 17, Proviso - Amendment of written statement - After the commencement of trial, amendment of pleadings cannot be allowed, until and unless, the party seeking amendment establishes that despite due diligence, it could not raise the pleas sought to be incorporated by way of amendment - Where defendant was already in knowledge of such pleas at the time of filing the original written statement - Amendment cannot be allowed.”



16. The judgment relied upon by the learned counsel for the petitioners is distinguishable on facts and law.

Relevant extract of the impugned order is as under:-

“5. Heard. Record perused. Perusal of the record transpired that the present case is at its fag end i.e. defendant had examined his PW. Plaintiff has filed suit for declaration to the effect that plaintiffs are joint owners in possession along with the defendants no. 1 to 8. In the plaint name of defendant no. 3 is mentioned as Shinder Kaur and name of defendant no. 6 is mentioned as Jagdev Singh. The present suit was filed on 29.01.2020 and accordingly summons were ordered to be issued to all the defendants. It is pertinent to mention over here that summons for the service of defendant no. 3 Shinder Kaur and defendant no. 6 Jagdev Singh received back on 24.02.2020 with the report that incomplete address. Thereafter, power of attorney on behalf of defendants no. 3 to 6 was filed on 18.03.2021. Thereafter, defendant no. 3 Shinder Kaur was proceeded against exparte vide order dated 18.10.2023 and defendant no. 6 Jagdev Singh is appearing. Now way of present application, plaintiff has sought correction in the name of defendant no. 3 Shinder Kaur to Mohinder Kaur and defendant no. 6 Jagdev Singh to Sukhdev Singh. Under the garb of application under Order 6 rule 17 CPC plaintiff has sought impleading of other parties in the present suit. Present application is not supported by any affidavit. The reason for filing the application under Order 6 rule 17 read with 151 CPC as given in the application is Kewal Krishan has died and defendants no. 2 to 7 are his legal heirs. Plaintiff/applicant did



*not know them personally and now on inquiry he know about their name and implead them as party to suit. It is pertinent to mention over here that defendant has placed on record Jamabandi for the year 2016-2017 of Village Mundian Khurd having mutation no. 11026 regarding inheritance of estate of Kewal Krishan and in that mutation entry name of LRs of Kewal Krishan has been already mentioned. Further it is pertinent to note that plaintiff has placed on record the same Jamabandi with same mutation number when the suit was filed in the year 29.01.2020 along with the suit. But there is no name of LR of Kewal Krishan. As such, plaintiff was having the knowledge of regarding the names of LR of Kewal Krishan since 2020 but the names of Lrs as sought to be correct has not been changed till date. Now the case is at its fag end. Provisions of Order 6 rule 17 CPC cannot be used to implead to any other party except the party already mentioned in the plaint of the plaintiff. Reliance is hereby placed on law laid down by **Hon'ble Supreme Court in Rajesh Kumar Aggarwal v. K.K. Modi 2006 (5) ALL MR (SC) 185,...**".*

17. In view of the above noted factual and legal position, the present petition is **dismissed**.

18. Pending application(s) if any also stand(s) disposed of.

14.10.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No