



CR-1212-2023 (O&M)

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

**CR-1212-2023 (O&M)
Reserved on : 28.07.2025
Pronounced on : 31.07.2025**

Ram Chander

...Petitioner

Versus

Municipal Council, Kanina and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. J.P. Sharma, Advocate,
for the petitioner.

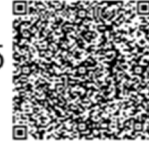
Mr. Prateek Mahajan, Advocate and
Mr. Daanish Mahajan, Advocate
for respondent No.1.

Mr. Sharad Aggarwal, Addl.A.G., Haryana
for respondent No.3.

HARPREET KAUR JEEWAN, J. (Oral)

1. The petitioner-plaintiff has filed this Civil Revision under Article 227 of the Constitution for setting aside the impugned order dated 17.12.2022 (Annexure P-1), passed by the Additional Civil Judge (Sr. Division), Kanina, whereby, an application filed by the petitioner under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (*for short, 'the CPC'*), has been dismissed.

2. The petitioner-plaintiff filed a civil suit for permanent injunction, restraining the respondent-defendants from interfering with the peaceful possession of the petitioner over the land measuring 15ft. X 10 ft., which is alleged to have been taken on rent from respondent No.1-Municipal Council and in this regard, the petitioner on 02.02.2000 had deposited a sum of Rs.7,000/- in the office of



CR-1212-2023 (O&M)

respondent No.1 as security. The petitioner has put-up a kiosk (at) on the said place and his shop number is 567. It was alleged that the respondent-defendants are interfering with the peaceful possession of the said kiosk.

3. During the pendency of the Civil Suit, the petitioner moved an application seeking amendment in the plaint by way of incorporating para No.4A in the plaint, which reads as under:-

“para no.4A: - That the plaintiff on the rented space 10x15 fts. And by making kiosk over it was doing business of Tea Stall, snacks, Crockery and gas cylinder and stove were lying there and feeding his family and despite the stay order defendants by using their power and with arbitrary and malafide on dated 26/27.10.2020 intervening night the shop-kiosk and the goods lying therein were taking away forcefully and the plaintiff asked to the defendants on dated 27.10.2020 then defendants refused to return and refused to tenancy and refused to preparing tea there and made other construction there and hence the defendants ejected the plaintiff from the tenancy and the possession of the plaintiff be restored and order of starting the tenancy of the plaintiff be ordered.”

4. The said application was contested by the respondents by way of filing reply and ultimately, it was dismissed by the Civil Judge vide the impugned order dated 17.12.2022.

5. Learned counsel for the petitioner contends that the proposed amendment is necessary for proper adjudication of the matter and it will not change the nature of the civil suit. The Civil Court is competent to restore the status of the property as on the date of filing the civil suit, hence, the application for amendment ought to have been allowed by the Civil Judge. The petitioner is still in possession at the



CR-1212-2023 (O&M)

spot and forcible demolition of the structure can be ordered to be restored.

6. On the other hand, learned counsel for the respondents opposed the petition and contended that the application has been rightly dismissed. Reliance has been placed on the decision of the Hon'ble Apex Court in *Ravajeetu Builders & Developers Vs. Narayanaswamy & Sons & Others, 2010(1) RCR (Civil) 27.*

7. I have considered the aforesaid contentions and perused the paper-book.

8. At the time of filing the Civil Suit, the petitioner-plaintiff has alleged that he is in possession of the suit property as a tenant and is running a tea-stall therein. It is the case of the petitioner that during the pendency of the Civil Suit, i.e. on the intervening night of 26-27 October, 2020, the respondents have demolished the tea-stall and took away all the articles lying in the kiosk during the night time. Thus, he wants to take a plea that possession of the plaintiff be restored. The Civil Judge has observed that the alleged event is dated 27.10.2020, whereas the present application was moved on 23.04.2022. The application was dismissed by observing that a fresh cause of action has arisen to the petitioner, which would require fresh findings, as such, the prayer for amendment in the pleadings was declined.

9. The Hon'ble Apex Court in *Revajeetu's* case (*supra*) has observed that Order VI Rule 17 is one of the important provisions of the CPC, but it is also the most misused provision for dragging the proceedings indefinitely. The applications for amendment lead to further delay in the disposal of cases, whereas, all the Civil Courts are



CR-1212-2023 (O&M)

ordinarily having a long list of cases. The Hon'ble Apex Court detailed various factors which should be taken into consideration while dealing with such applications for amendment and the relevant observations are as under:-

“67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.”

10. In this case, the petitioner earlier sought relief of injunction, but now, by way of the proposed amendment, he is seeking restoration of possession in his favour, on the basis of tenancy. Such a relief sought by the petitioner would require detailed pleadings and independent evidence, as such, this Court is of the considered opinion that the proposed amendment would fundamentally change the character and nature of the case. The Civil Judge has rightly declined the application for amendment of the civil suit, hence, the impugned order calls for no interference.



CR-1212-2023 (O&M)

11. Consequently, present petition has no merits and is accordingly dismissed

12. Pending miscellaneous applications, if any, shall stand disposed of.

31.07.2025

atulsethi

**[HARPREET KAUR JEEWAN]
JUDGE**

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No