



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

**221**

**Date of decision: 26.09.2025**

**1. CR-820-2019**

**Dharam Singh @ Dharambir and others**

**...Petitioner(s)**

**Vs.**

**Harsh and others**

**...Respondent(s)**

**2. CR-944-2019**

**Dharam Singh @ Dharambir and others**

**...Petitioner(s)**

**Vs.**

**Harsh and others**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sukhandeep Singh, and  
Mr. Ram Lal Yadav, Advocate for  
Mr. Lokesh Sinhal, Advocate  
For the petitioners.

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**NIDHI GUPTA, J.**

**CR-820-2019**

Present Civil Revision Petition has been filed by the defendants under Article 227 of Constitution of India seeking setting aside of the Impugned Order dated 19.01.2019 (Annexure P-8) passed by the learned Additional District Judge (Senior Division), Pataudi; whereby application filed by the petitioners in Civil Suit no. 1295 of 2014 dated



23.3.2013 for excluding/sticking off unauthorized amendment, has been dismissed.

**CR-944-2019**

Present Civil Revision Petition has been filed by the defendants under Article 227 of Constitution of India seeking setting aside of the Impugned Order dated 19.01.2019 (Annexure P-8) passed by the learned Additional District Judge (Senior Division), Pataudi; whereby application filed by the petitioners in Civil Suit no. 1296 of 2014 dated 25.4.2013 for excluding/sticking off unauthorized amendment, has been dismissed.

**Main cases**

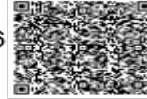
Both the above said Revision Petitions are being disposed of by common order as both the Revision Petitions are between the same parties, against identical impugned order, albeit in two different suits. For the sake of brevity, facts are being taken from CR-820-2019.

2. Brief facts of case are that the respondent/plaintiff had filed a Civil Suit no. 1295 of 2014 dated 23.03.2013 (Civil Suit no. 1296 of 2014 dated 25.04.2013 in CR-944-2019) (Annexure P-1) for declaration and permanent injunction. In the said suits, respondents had filed application dated nil (Annexure P-2) under Order 1 Rule 10 read with Section 151 CPC for impleading petitioners No. 4 to 6 as party defendants No. 7 to 9. This application was filed by the respondents at the stage of plaintiffs' evidence. Vide order dated 26.04.2017 (Annexure P-4), the said application of the respondents was allowed, and the



respondents were directed to file amended title. However, the respondents not just filed an amended memo of parties; but also filed amended plaint dated 02.08.2017 (Annexure P-5) in which paras 4, 4A, 4B, 4C and 4D were added/amended. Accordingly, the petitioners had filed the present application dated 19.12.2018 (Annexure P-6) for striking off the unauthorized amendment in the plaint. Respondents had filed reply dated 02.01.2019 (Annexure P-7) to the said application. Vide the impugned order dated 19.01.2019 (Annexure P-8), the said application of the petitioners has been dismissed.

3. It is *inter alia* submitted by learned counsel for the petitioners that in dismissing the application (Annexure P-6), the learned Trial Court has totally misled itself in respect of the legal requirement that for amendment of the plaint, respondents were required to file an application under Order 6 Rule 17 CPC. It is submitted that the respondents could not have been permitted to file an amended plaint, and amended plaint of the respondents could not have been taken on record by the learned Trial Court without seeking necessary permission in this regard under Order 6 Rule 17 CPC. Vide the order dated 26.04.2017 only an application under Order 1 Rule 10 was allowed and the respondents were permitted to file amended title. No permission was sought, and no permission was granted to file amended plaint. As such, application of the petitioner for striking off an unauthorized amendment in the plaint by the respondents could not have been dismissed.



4. *Per contra*, learned counsel for the respondents submits that the respondents were constrained to file an application under Order 1 Rule 10 CPC as during the pendency of the original suit (Annexure P-1), the petitioners had executed illegal Sale Deeds in favour of respondents No. 4 to 6/defendants No. 7 to 9. It is submitted that as such, it was necessary to bring on record the facts pertinent to the said newly added defendants and the facts which had transpired after filing of the suit (Annexure P-1). Therefore, amendment was necessitated and therefore there was no error in the impugned order passed by the learned Trial Court in dismissing the petitioners' application. He accordingly prays for dismissal of the present Civil Revision Petition.

5. No other argument has been raised on behalf of the parties. I have heard learned counsel for the parties. I find merit in the submissions advanced on behalf of the petitioners.

6. Perusal of the application (Annexure P-2) filed by the respondents under Order 1 Rule 10 CPC shows that the prayer made therein by the respondents is for permitting the respondents *"to make above referred persons in para 2 and 3 of the application, party to the suit in the interest of justice and fair play."* No prayer was made, in fact, no prayer could have been made, by the respondents in the said application for amendment of the plaint. As such, learned Trial Court could not have gone beyond the pleadings in permitting the respondents to file amended plaint (Annexure P-5) thereby adding/altering of paras 4, 4A, 4B, 4C and 4D.



7. In similar circumstances, the Andhra Pradesh High Court in **S.V.Krishna Reddy vs. S. Mariam Bee, Law Finder Doc Id # 728804**; has held in para 11, which is reproduced as under: -

*“11. The next question that arises is, what are the consequential amendments that should be permitted under Sub-rule (4) of Rule 10 of Order 1? The necessary amendments to be made are obviously in the cause title of the plaint and in the description of parties. Rule 28 of the Civil Rules of Practise requires that an application under Order 1 Rule 10 C.P.C. should also contain, a prayer for all ‘consequential amendments and that the Presiding Officer shall reject the application if it is not accordance with law or these Rules. The ‘consequential amendments’ sought to be made by the petitioner herein were already extracted in the earlier portion of this judgment. I am of the view that the last sentence in the passage sought to be introduced into the body of the plaint definitely goes beyond the scope of ‘consequential amendment’ because in that the petitioner herein contends that “defendants 2 to 4 are bound to join in the execution of the sale deed to be executed by the defendant.” Admittedly the agreement to sale dated 9-6-1983 in respect of which specific performance is sought by the petitioner was executed only by the 1<sup>st</sup> respondent herein and if respondents 2 to 4 are also to be directed to join the sale deed to be executed by the 1<sup>st</sup> respondent that would be introducing a new cause of action which goes beyond the scope of the suit as originally instituted. The petitioner can seek such an*



*amendment only by a separate application under Order 6 Rule 17 of the C.P.C. I am of the view that it would have been better had the petitioner preferred a separate application under Rule 17 of Order 6 of the Civil Procedure Code for making comprehensive amendments simultaneously along with the present application because the petitioner really is seeking amendments which are not merely consequential to the impleading of respondents 2 to 4 as defendants 2 to 4 in the suit. However I am inclined to allow the following amendment to be made in the plaint by including the same at an appropriate place:-*

*“Defendants 2 to 4 along with the 1<sup>st</sup> defendant who is the wife of the 2<sup>nd</sup> defendant and who is the mother of defendants 3 and 4 have fraudulently and designedly brought a nominal document calling it as deed of partition purporting to divide the suit property into four equal shares. There cannot be any joint family property and there cannot be any partition among Muslims. It is the exclusive property of the 1<sup>st</sup> defendant and the alleged partition arrangement does not confer any right upon the defendants 2 to 4.”*

9. Therefore, the respondents could not have been permitted to amend the suit and file amended plaint, in pursuance to an application under Order 1 Rule 10 CPC. Accordingly, the present Civil Revisions Petitions filed by the defendants are **allowed**; and order dated 19.01.2019 (Annexure P-8) is hereby set aside. However, liberty is granted to the respondents to file appropriate application in accordance with law for amendment of their plaint, if so advised.



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

**26.09.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

<b>Whether speaking/reasoned:</b>	<b>Yes/No</b>
<b>Whether reportable:</b>	<b>Yes/No</b>