



120

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

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**CR-5433-2025 (O&M)
Decided on :- 18.08.2025**

Shiv Dutt

...Petitioner

VERSUS

Pardeep Kumar Sharma and Others

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Mansih Mehta, Advocate for the petitioner.

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MANDEEP PANNU J.

1. The present revision petition is directed against the order dated 04.08.2025 passed by the learned Additional District Judge, Narnaul, in Civil Appeal No. 409 of 2014, whereby:

(i) The application filed by respondent No. 1 for amendment of the title of the memorandum of appeal to conform to the description of parties as recorded in the trial court judgment and decree was allowed;

and

(ii) The application filed by the petitioners seeking retention of the title consistent with their defence, by describing respondent No. 1 as “son of Deen Dayal, alleged adopted son of Smt. Gyarsi Devi”, was dismissed.

Factual Background

2. The suit out of which the present appeal arises was instituted by respondent No. 1, who was described in the plaint as “Pradeep Kumar Sharma adopted son of Deen Dayal.” The petitioners/defendants, in their written statement, took the stand that respondent No. 1 was in fact the alleged adopted son of Smt.



Gyarsi Devi, and accordingly described him as “son of Deen Dayal, **alleged** adopted son of Smt. Gyarsi Devi” in all their pleadings.

3. The trial Court, while deciding the matter, retained the plaintiff’s own description as given in the plaint. When Civil Appeal No. 409 of 2014 was filed by the defendants/petitioners, they described the plaintiff/respondent No. 1 in the memorandum of appeal according to their defence. Respondent No. 1 moved an application for amendment of title in consonance with the title given in the judgment passed by the learned trial Court. The petitioners/defendants, in turn, filed an application for retention of the existing title in the appeal memorandum by mentioning respondent No.1 as adopted son of Smt. Gyarsi Devi.

Submissions Of Learned Counsel For The Petitioners

4. It is argued by learned counsel for the petitioners that the petitioners have a vested right to describe the respondent in accordance with their defence, especially when the very fact of adoption is in dispute and compelling them to adopt the description used in the trial court decree amounts to curtailing their defence and prejudging an issue still in controversy. It is further argued that the appellate court has no jurisdiction to alter the title of the appeal to remove qualifying words that are material to the petitioners’/appellants’ case.

5. The question that arises for determination is “Whether the appellate Court was justified in directing the amendment of the appeal title to match the trial court decree and in rejecting the petitioners’/appellants’ plea to retain the description consistent with their defence.”

Findings

6. Order XLI Rule 1(2) of the Code of Civil Procedure, 1908 (for short, ‘CPC’) mandates that the memorandum of appeal shall be accompanied by a copy of the decree appealed from.



CR-5433-2025 (O&M)

-3-

7. On perusal of the record, it is evident that the trial court decree described respondent No. 1 simply as “adopted son of Deen Dayal.” There is no mention of word “*alleged*”

8. The appellate Court’s direction to adopt the same description in the appeal title is in consonance with the statutory requirement under Order XLI Rule 1 CPC and established judicial precedent.

9. The petitioners’ right to raise their plea of adoption remains unaffected; they may do so in arguments, but not in the memorandum of the appeal.

10. The impugned order does not prejudice the petitioners’ substantive defence, it merely aligns the party description with the decree under challenge.

Conclusion

11. The appellate court committed no illegality or material irregularity in passing the impugned order dated 04.08.2025. The amendment in the title of the memorandum of appeal is procedural in nature and mandated by law. The petitioners’ objections are without merit.

12. In view of discussion made herein-above, the present revision petition is dismissed.

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

August 18, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No