



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

Sr. No.111

CR-2596-2021

Date of Decision: 02.08.2025

NACHHTAR SINGH

....Petitioner

Versus

MANDEEP KAUR AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Mr. G.S.Virk, Advocate
for respondents No.1 to 3.

Service of respondent No.4 dispensed with
vide order dated 30.03.2022.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 13.10.2021 (Annexure P-6), passed by learned trial Court, whereby an application filed by the petitioner (who is plaintiff before learned trial Court), for seeking amendment of plaint, was dismissed.

The petitioner/plaintiff had filed a suit for mandatory injunction, thereby seeking issuance of direction to respondents No.1 to 3/defendants No.1 to 3, to hand over the physical possession of the immovable property, measuring 5 marlas i.e. house, as detailed in the head



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note of the plaint, copy whereof is Annexure P-1. It is the version of the petitioner/plaintiff that he is an absolute owner of the suit property and that the suit property, along with the adjoining property, was already in his possession, as it was earlier the ownership of Sadhu Singh son of Rur Singh, father of plaintiff, father-in-law of defendant No.1 and grandfather of defendants No.2 and 3. However, in the year 2013, Panchayati Razinama was executed between the petitioner and the respondents, vide which adjustments were made between them, regarding the property owned by Sadhu Singh and '*Tabdeel Malkiatnama*' of the suit property, was executed in favour of the petitioner/plaintiff. After the execution and registration of the said '*Tabdeel Malkiatnama*', the respondents/defendants were duty bound to hand over the possession of the suit property, but they did not do so. At present, the respondents/defendants are in unauthorized possession of the suit property. On the basis of such assertions, relief of mandatory injunction was sought by the petitioner.

However, defendants No.1 to 3, had filed the written statement and denied the assertions of the petitioner/plaintiff. In fact, it was asserted by the defendants that an agreement was executed on 19.01.1993, between the petitioner-Nachhitar Singh, as well as his father, Sadhu Singh and Sher Singh, husband of defendant No.1 and father of defendants No.2 and 3. On the basis of the said agreement, the land measuring 10 marlas, was divided in favour of the petitioner/plaintiff, as well as Sher Singh, husband of defendant No.1. Also, it was asserted that the husband of defendant No.1, had constructed rooms in the said property and he had died on 16.07.2007. Also, there is stated to be an electric meter in the said house and defendant No.1 pays the bills, relating to the same. The suit for mandatory injunction



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was asserted to be not maintainable. However, the execution of the '*Tabdeel Malkiatnama*', is denied. Further also, it has been asserted that, if at all, it is proved to have been executed, the same also does not carry any fact and is null and void, in view of the agreement having taken place on 19.01.1993 and the properties having divided.

When the aforesaid case was at the stage of rebuttal evidence, an application for seeking amendment of the plaint was filed by the petitioner/plaintiff, thereby seeking substitution of mandatory injunction with word '*possession*'. Also, it was stated therein, that it was more of a clarificatory nature and that the petitioner/plaintiff shall not lead any further evidence and would rely upon the evidence already led by him. However, reply was filed to the said application, wherein the respondents/defendants resisted the claim of the petitioner and also stated about the same to be not maintainable and also stated about the suit to be time barred.

After hearing the counsel for the parties, learned trial Court had dismissed the application, primarily keeping in view the stage of the case as well as keeping in view the fact that the application was filed at a belated stage. Furthermore, it was also observed that the amendment shall also change the nature of the proceedings and would create a new cause of action.

However, after hearing the counsel for the parties, this Court is of the view that the revision petition deserves to succeed. This Court is not in agreement with the view of learned trial Court, about change of nature of the suit, by the proposed amendment. The suit was filed for mandatory injunction, thereby asserting the relief in the suit, for direction to deliver the possession. The nature of the suit and the relief sought therein, will be



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same, but only its form would be different. Earlier, it was a suit for mandatory injunction and now, after the amendment, it will be a suit for possession. Though, learned trial Court observed about the application having filed by the petitioner/plaintiff, to delay the proceedings, but it is not so, as in the application, it has been specifically mentioned that no further evidence is to be led. In the given circumstances, it cannot be said about there to be change in the nature of the proceedings also. In these circumstances, the evidence already led by the petitioner/plaintiff, will be the same, as in the original suit. There will be no change, as far as, the questions involved between the parties are concerned.

In view of the aforesaid observations, the revision petition is hereby **allowed** and consequently, the amendment sought in the plaint, is also allowed.

02.08.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No