



CR-6461-2025 (O&amp;M)

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

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**CR-6461-2025 (O&M)  
Decided on :- 15.09.2025**

Balbir Singh

....Petitioner

VERSUS

Gram Panchayat and Another

...Respondents

**CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU**

Present: Mr. Kulwinder Singh, Advocate for  
Mr. S.S.Sarwara, Advocate for the petitioner.

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**MANDEEP PANNU J.**

1. This revision petition has been filed by defendant no. 2 Balbir Singh for setting aside the order dated 21.05.2025 passed by the learned Civil Judge (Junior Division), Rajpura in case titled as “Gram Panchayat v. Amar Singh and another”, whereby the application moved by defendant no. 2 for permission to file a separate written statement was dismissed.

**Brief Facts**

2. The facts necessary for disposal of the present petition are that the Gram Panchayat, respondent no. 1 herein, instituted a civil suit for permanent injunction restraining the defendants from raising any construction over the village pond situated in Lal Lakir of village Kheri Gandhi, Tehsil Rajpura, District Patiala. The present petitioner/defendant no.2, on account of close relationship and trust, entrusted the defence of the suit to his co-defendant Amar Singh. Defendant no. 1, being more literate and elder, assured the petitioner that he would look after the case on behalf of both the defendants. In these circumstances, a joint written



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statement was filed in the suit, and the petitioner/defendant no. 2, who is not conversant with English, signed the same along with verification at the instance of defendant no. 1, believing that it correctly represented his defence.

3. However, the joint written statement contained averments wholly false and detrimental to the petitioner. It was specifically pleaded that defendant no. 1 had constructed the disputed shops in 2008 and later reconstructed the same after a fire. This plea was factually incorrect as the true position is that the shops were in fact purchased by the wife of defendant no. 2, Smt. Amarjeet Kaur. After the filing of the joint written statement, the trial proceeded further, issues were framed, and the plaintiff even examined two witnesses. During this period, defendant no. 2 remained unaware of the false stand taken in the joint written statement. It was only upon issuance of notice dated 08.04.2022, when none appeared on behalf of the defendants and the Court proceeded against defendant no. 1 ex parte, that defendant no. 2 engaged his own counsel and on 19.09.2022 inspected the record. At that stage, he came to know that the joint written statement contained incorrect averments regarding ownership of the disputed shops. Having realised this position, defendant no. 2 moved an application before the trial Court for permission to file his separate written statement in order to bring on record his genuine defence.

4. The said application was contested by the plaintiff and ultimately dismissed by the trial Court on the ground that the joint written statement already bore the signatures of both the defendants duly verified, and having admitted the contents therein to be true and correct, defendant no. 2 could not be permitted, after several months, to file a contradictory statement. The trial Court further held that one of the defendants cannot be allowed to take inconsistent pleas without the consent of the other defendant, as that would virtually amount to amending the



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joint written statement, which is impermissible. It is against this order that the present revision petition has been filed.

5. Learned counsel for the petitioner submits that the learned trial Court has committed a grave jurisdictional error by failing to appreciate the core of the petitioner's plea, which was rooted in misrepresentation by respondent No.2- Amar Singh (co-defendant). He further submits that denial of filing of separate written statement to the petitioner would result in multiplicity of proceedings and deprive him of complete and effective relief. It is further contended that the finding of the learned trial Court that the application was belated, is unsustainable as the petitioner was not guilty of laches or negligence. He acted under a bona fide belief induced by his co-defendant. The period of delay should only start from the date of knowledge of the fraud, which was upon inspection of the file by his new counsel. He further submits that it is settled law that held that pleadings are not to be construed in a pedantic manner and amendments or clarifications must be liberally allowed to determine the real controversy and refusal to file a separate written statement would deprive the petitioner to establish his proprietary rights.

**Findings**

6. Having heard learned counsel for the petitioner and upon perusal of the record, I am of the view that the impugned order cannot be sustained. The trial Court has proceeded on an erroneous assumption that a defendant is forever bound by a joint written statement even if he demonstrates that the averments therein do not reflect his actual defence. The petitioner has clearly explained that he signed the joint written statement under the belief that it represented his case, being misled by his co-defendant. Once he realised the incorrectness of the averments, he promptly moved the Court for permission to place on record his own separate

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defence. In such a situation, the law does not forbid a defendant from being allowed to file a separate written statement.

7. The Supreme Court in *Firm Srinivas v. Majabir Prasad [1951 SCR 277]* has laid down that under the Civil Procedure Code, pleadings may contain alternate and inconsistent allegations, and parties are not debarred from taking inconsistent stands in their defence. It was observed that a plaintiff may rely upon different rights alternatively and there is nothing in the Code to prevent a party from making two or more inconsistent sets of allegations and claiming relief thereunder in the alternative. The Court emphasised that ordinarily relief cannot be granted on a case not pleaded, but when an alternative case which the plaintiff could have made was admitted by the defendant in his written statement and expressly put forward as an answer to the claim, then it would not be improper for the Court to adjudicate upon such a case. The principle flowing from this judgment is that pleadings are not to be construed with undue rigidity, and even inconsistent and contradictory pleas may be allowed, provided the opposite party is not taken by surprise and has an opportunity to meet them.

8. Applying the aforesaid principle to the facts of the present case, it is evident that permitting defendant no. 2 to file a separate written statement would not prejudice the plaintiff. The original joint written statement will remain on record. The separate written statement of defendant no. 2 will also be on record and at the stage of trial, the Court will consider the rival versions and determine the truth. On the contrary, allowing defendant no. 2 to file his separate written statement will advance the cause of justice by enabling the Court to adjudicate upon the real dispute between the parties. Moreover, the plea to be taken by defendant No.2 by way of separate written statement is inconsistent qua defendant



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No.1 and not against plaintiff who is not going to be prejudiced by the said plea taken up by defendant No.2 in separate written statement.

9. The reasoning adopted by the trial Court that one defendant cannot take a contrary plea without the consent of the other is misplaced. There is no such bar in law. On the contrary, the Code itself, under Order VIII Rule 9, permits the Court to allow additional written statements. The petitioner cannot be compelled to abide by incorrect admissions made by his co-defendant under circumstances where he has shown that the said written statement did not reflect his actual defence.

10. In view of the discussion aforesaid and taking guidance from the principle enunciated in *Firm Srinivas v. Majabir Prasad (supra)*, this Court holds that the petitioner/defendant no. 2 is entitled to place on record his separate written statement even though it may contain pleas inconsistent with the earlier joint written statement. The earlier statement will remain on record, but that cannot preclude defendant no. 2 from bringing his own defence before the Court.

### **Conclusion**

11. Accordingly, the present revision petition is allowed. The impugned order dated 21.05.2025 passed by the learned Civil Judge (Junior Division), Rajpura is set aside. The application filed by defendant no. 2 for permission to file a separate written statement is allowed. The learned trial Court shall take the said written statement on record and proceed with the trial of the suit in accordance with law.

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

September 15, 2025  
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**(MANDEEP PANNU)**  
**JUDGE**

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