



127 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2040-2024 (O&M)

Date of decision : 03.09.2025

Shish Pal Singh @ Satpal Singh Petitioner

Versus

Gurdev Singh Sagoo & ors. Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Japsehaj Singh, Advocate
for the petitioner.

Mr. Manuj Nagrath, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

1 Challenge is to order dated 05.01.2024 (Annexure P-1) passed by Civil Judge, Senior Division, NRI Court, Jalandhar. For convenience parties hereinafter are referred to by their original position in the suit i.e. the petitioner as defendant No.1 and respondent No.1 as plaintiff.

2 Plaintiff filed application under Order VI Rule 17 CPC seeking amendment of the plaint. Proposed amendments which have been allowed by the Trial Court *vis-à-vis* the original plaint have been tabulated by the petitioner in the revision petition as under :-

	<i>Existing</i>	<i>Amendment sought</i>
	<i>Suit for possession directing the defendant no. 1 to deliver and</i>	<i>Suit for separate possession to the extent of ½ out of the property measuring 20 marlas,</i>



<p>handover physical vacant, possession of the shop built on area measuring 1 kanal bearing No. ES-10, situated at Nakodar Road Jalandhar, comprised in Khewat No. 3812 Khatauni No. Khasra No. 4434 31124/21103/3922(4-0), 3923(3-14), 31928/31127/21103(0-10,3922/1(0-1),31990/31122/21103/3922/1(0-1), 31997/31122/21103/3922/1(0-1),31999/31122/21103/3922/1(0-1),31993/31123/21103/3922/1(0-1), 31994/31127/21103,3922/2(0-1),31995/31127/21103,3922/1(0-1), 31996/31127/21103(0-1),3922/1 Khatauni No. 4435 Khasra No.31123/21103/3922(0-8), Khatauni No. 4436 Khasra No. 31992/21103/3922/1(0-6), Khewat No. 3812 Khatauni No 4437 Khasra No. 31998/31222/21103/3922/1(0-1), Khatauni No. 4438 Khasra No. 31989/31122/21103/3922/1(0-9), Khatauni No. 4439 Khasra No. 31991/31122/21103/3922/1(0-7) shown red in the site plan attached and bounded on East: Passage/street, West: Nakodar Road, North: Property of others, and South: Street"</p>	<p>fully detailed in the plaint, shown red in the site plan 1 attached by metes and bounds by partition of the property, bounded on East: Passage/street, West: Nakodar Road, North: Property of others, and South: Street".</p>
<p>B. For recovery of mesne profits for use and occupation of the premises at the rate of Rs. 20,000.00 per month from April 2013 to March 2016.</p>	<p>Suit for recovery of mesne-profits for use and occupation of the premises qua the share of the plaintiff at the rate as assessed by the Honourable court from April 2013 to March 2016.</p>
<p>C. 9. That the defendant no. 1 remained to be a tenant under the plaintiff, who was the co-owner of the property, but the defendant no. 1 denied the relationship of landlord and tenant between the plaintiff and defendant no. 1 in the application for leave to contest, as such, the necessity has arisen to the plaintiff to file the instant suit against the defendants no 1 and 2 to recover possession of the suit property. possession of the defendants no 1 and 2 over the suit property is illegal, unlawful, and</p>	<p>9. That the defendant no. 1 was the tenant under the plaintiff being co-sharer of the property. But the defendant no. 1 denied relationship of landlord and tenant between the parties in the application for leave to contest. As such, necessity arose to file the instant suit against the defendants. The plaintiff has challenged the sale deed and the defendant no.1 has claimed to be owner of the land measuring 20 marlas whereas, the plaintiff is owner of the property in dispute to the extent of 10 marlas, as such, he has become joint owner alongwith the defendant no.1 and 2. The property in dispute is joint, un-partitioned, undivided</p>



	<p><i>the defendants no 1 and 2 are using the same without any authority, as such, they are liable to pay mesne profits to the plaintiff, since the defendants no. 1 and 2 are using the premises, as such, the mesne profits of the use and occupation of the suit property by the defendants no 1 and 2 have been claimed the mesne profits for a period of three years only at the rate of Rs.20,000.00 per month which, the defendants no. 1 and 2 are liable to pay to the plaintiff.</i></p>	<p><i>and has not been partitioned and it is not possible for he plaintiff to enjoy the fruit of his ownership qua 10 marlas and seeks separate possession by way of partition. Further the defendants no.1 and 2 have been using the share of the plaintiff, as such, the plaintiff is entitled to mesne profit for the use and occupation of the said property at the rate to be assessed by the Honourable Court and the defendants no. 1 and 2 are liable to pay the same to the plaintiff.</i></p>
D.	<p><i>10. That the plaintiff through his attorney requested the defendants No. 1 and 2 to deliver and hand over physical vacant possession of the disputed property and to pay mesne profits but they refused to accede to the request of the plaintiff, rather denied the title of the plaintiff and asserted the title in themselves. The defendants no. 1 and 2 have got no right, title or interest in the portion which is ownership of the plaintiff.</i></p>	<p><i>10. That the plaintiff through his attorney requested the defendants no.1 and 2 to partition the land and to deliver the possession of 10 marlas to the plaintiff and also to pay mesne profits, but they flatly refused to accede to the request of the plaintiff, rather denied the title of the plaintiff and asserted the title in themselves. The property is liable to be partitioned by metes and bounds and separate possession qua the share of the plaintiff is liable to be delivered to the plaintiff.</i></p>
E.	<p><i>14. That the value of the suit for the purposes of jurisdiction and court fee for relief of declaration is Rs. 500.00, for the relief of possession is Rs. 100.00 and for the relief of mesne profit is Rs. 7,20,000.00 on which the tentative court of Rs. _____ is paid and for the relief of permanent injunction, it is Rs. 500.00. Consolidated requisite court fee is paid on the plaint</i></p>	<p><i>14. That the value of the suit for the purposes of jurisdiction and court fee for relief of declaration is Rs. 500.00, for the relief of separate possession is Rs. 100.00 and for the relief of permanent injunction is Rs. 500.00 and for the relief of mesne profits is affixed as Rs. 1,000.00 and the plaintiff undertakes to affix proper court fee after the relief of recovery of mesne profits is assessed by Honourable the Court. Consolidated court fee is affixed on the plaint.</i></p>

3 From the aforesaid tabulation, it is evident that the plaintiff earlier was seeking eviction of defendant No.1 claiming that defendant No.1 is tenant over the suit property. Later on by way of proposed amendment the suit has been converted into a suit for separate possession by way of



partition by metes and bounds, after plaintiff admitted that defendant No.1 is co-owner to the extent of $\frac{1}{2}$ share.

4 In view of the nature of amendment and the fact that by way of proposed amendment the nature of suit has not been altered, this Court does not find any reason to interfere in the order passed by the Trial Court.

5 In view thereof, finding no merits in the present petition the same is ordered to be dismissed.

6 At this stage, counsel for the petitioner points out that, even after passing of the present order, the plaint has been further allowed to be amended. It is made clear that the petitioner shall be at liberty to avail his remedies against any subsequent development and the present order shall not affect his rights to do so.

7 Pending miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

03.09.2025

Pooja Sharma-I

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No