



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(118)

CR-5758-2025

Date of Decision:-26.08.2025

GURNAM SINGH

... Petitioner

Versus

KULDEEP SINGH AND OTHERS

... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present:- Ms. S.G. Kapila, Advocate  
for the petitioner.

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**VIRINDER AGGARWAL, J.** (Oral)

This petition under Article 227 of the Constitution of India has been filed assailing the order dated 16.07.2025 passed by Civil Judge, Junior Division, Dasuya, vide which, the application filed by respondents/plaintiffs No.1 and 2 under Order 6 Rule 17 of CPC for amending the plaint has been allowed.

2. The order has been assailed on the grounds that by allowing the amendment, the Court has caused serious prejudice to the rights of the petitioner, who is exclusive owner of the suit property and the amendment would change the nature of the suit. The Court below has not taken into consideration that respondent/plaintiff has no right, title or interest in the suit property. While allowing the application, the Court has ignored the earlier pleadings. Impugned order shows that the application for amendment of the plaint has been allowed, wherein, the respondent/plaintiff has been allowed to amend the plaint to incorporate the alternative plea of claiming the suit property as public passage as initial suit was filed on the grounds claiming passage on account of easement.



The relevant portion of the impugned order is Para Nos. 7 and 8, which is reproduced as under:-

*“7. Perusal of the file reveals that the present suit has been filed by the plaintiff for relief of declaration that the plaintiff is having right of way from only passage in khasra no. 13//6/1 as fully described in the head note of plaint along with consequential relief of mandatory injunction as well as permanent injunction. Evidence has been concluded by the plaintiff, when the present application under order 6 Rule 17 of CPC has been moved by the plaintiff on the ground that earlier he has filed suit for relief of declaration on the ground that he is having easementary right in passage as fully detailed and described in the head note of plaint. However, during the course of plaintiff evidence, it has come into knowledge of the plaintiff that the defendant has himself executed one affidavit and donated the above said passage to the Gram Panchayat and also permitted the Gram Panchayat to brick paved the entire passage, accordingly, the said passage has become public passage. Now the plaintiff wants to amend his plaint to that effect. On the other hand, the submission made by the Ld. counsel for the plaintiff is controverted by the defendant and submitted that plaintiff has filed application only to delay the proceeding of the court. It is further submitted by the defendant that no passage exists at the spot. It is further submitted that the affidavit was given by defendant no.1 to the village Panchayat only to made pucca passage from the main road upto 70 feet but the house of the plaintiff exists 300 feet away from the main road.*

*8. Whether passage as alleged by the plaintiff is public passage or private passage as alleged by the defendant is matter of evidence which can be decided after both the parties lead their evidence. The said amendment seems to be necessary for adjudicating the matter properly and finally. Moreover, it is also apparent that plaintiff examined Rajat Kumar, clerk from office of BDPO, Bhunga as PW-2 and in his testimony he has placed on record one affidavit dated*



*10.06.2009 alleged to be sworn by defendant no.1 vide which he has permitted the Gram Panchayat to make pucca street in the alleged passage. Therefore, this court is also satisfied that the present matter regarding the affidavit and public passage only come to the knowledge of the plaintiff, after PW-2 clerk from BDPO office placed on record the said affidavit. Hence, the said matter could not be raised earlier despite the due diligence”.*

3. Vide this order, the learned Court has allowed respondent/plaintiff to take an alternative plea, though, the same is inconsistent plea but as per the provisions of Order 6 CPC, inconsistent pleas can be taken in the pleadings. The amendment allowed by the Court would not change the nature of the suit as plaintiff is seeking right to use the passage in dispute. Initial suit was filed claiming it as an easementary right and now an alternative plea of passage being a public passage has been raised so, by allowing the amendment, nature of the suit has not changed, rather it remained the same, so the learned Civil Judge has not committed any material illegality or irregularity. The learned Civil Judge has exercised the jurisdiction vested in him properly and legally. Accordingly, no ground is made out to interfere in the well reasoned order of the learned Civil Judge.

4. Accordingly, the present revision is dismissed.

26.08.2025  
S. Pathania

(VIRINDER AGGARWAL)  
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No