



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

**CR-5409-2019(O&M)**

**Date of Decision: May 23, 2025**

Rajiv Kumar through LRs

...Petitioner

Versus

Gurjot Singh Walia and others

...Respondent

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Atul Jain, Advocates  
for the petitioner.

None for respondent No.1.

Respondents No.2 and 3 proceeded against ex-parte.

Mr.Sarthak Soni and Mr.Tara Dutt, Advocates for  
Mr.Sanjeev Soni, Advocate for respondent No.4.

Mr.Aakash Singla, Advocate  
for respondent No.5.

None for respondent No.6.

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**ARCHANA PURI, J.**

Challenge in the present revision petition is to the order dated 30.07.2019 passed by learned trial Court, whereby, an application under Order 6 Rule 17 CPC, for seeking amendment of the plaint was dismissed.

The essential facts, to be noticed, are as follows:-

That, petitioner-Rajiv Kumar had filed a suit, thereby seeking

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declaration to assail the sale deed dated 07.04.2014, allegedly executed by Navjot Singh-defendant No.3, in favour of Gurjot Singh Walia-defendant No.1, vis-a-vis, the property, as detailed in the headnote of the suit, copy whereof is Annexure P-1. In the alternative, also sought relief of recovery of Rs.75 lakh along with interest @18% from the date of filing of the suit, till realization from defendant No.1-Gurjot Singh Walia. Besides the aforesaid, the petitioner-plaintiff also sought issuance of mandatory injunction to direct defendant No.1 to remove illegal and unauthorised construction raised on plot No.3 and further sought direction to defendant No.4-Municipal Corporation, to remove the illegal and unauthorised construction raised by defendant No.1 over plot No.3 and on part of Plot No.4, as detailed in the headnote of the plaint.

Besides the same, even relief of permanent injunction was sought to restrain defendant No.1 from raising any further construction over Plot No.3 and on part of Plot No.4 and also to restrain them from selling, alienating, transferring or creating any charge over the said Plot No.3, in any manner.

In the plaint, it was asserted that deal was struck with defendant for the sale of plot No.3, which formed the part of Kothi No.257, situated at Ajit Nagar, Patiala. The deal was to the extent of Rs.2.80 crore. Out of the said amount, Rs.1.50 crore was paid to the petitioner-plaintiff as earnest money and the residue amount of Rs.1.30 crore was agreed to be paid, at the time of execution of the sale deed, after deducting the amount spent on getting necessary approvals/permissions of carving out the land into plots as well as approvals from the Municipal Corporation.

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The petitioner-plaintiff had executed agreement to sell and other documents, at the instance of respondent-defendant No.1 and his father. The Power of Attorney was executed and registered at Rajpura, though, he never resided at Rajpura. The documents were arranged by respondent-defendant No.1, with the influence of defendant No.2. Though, the deal was for the extent of Rs.2.80 crore, but however, respondent-defendant No.1 induced the petitioner-plaintiff to sign agreement to sell, showing the total sale consideration of Rs.1.50 crore, on the pretext, that it was so required to get the necessary permissions from various departments. As such, at the instance of respondent-defendant No.1, an agreement dated 03.06.2013 was executed between the petitioner-plaintiff and respondent-defendant No.1 and the sale consideration of Rs.1.50 crore was paid to the petitioner-plaintiff and the residue was to be paid, after the necessary permissions and at the time of execution/registration of the sale deed, after deducting the amount spent by respondent-defendant No.1.

The petitioner-plaintiff, as such, has not received the entire sale consideration. The site plan was got sanctioned and after the approval of the site plan, respondent-defendant No.1 approached the petitioner-plaintiff and informed that he had spent Rs.55 lakh and agreed to pay a sum of Rs.75 lakh, as remaining sale consideration, after deducting the amount of Rs.55 lakh. However, the said amount was never spent by the respondents-defendants No.1 and 2.

Anyhow, these persons prevailed upon the petitioner-plaintiff to pay the said amount and the petitioner-plaintiff had accepted the said

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transaction, but reserved his right to recover the same, in accordance with law. However, the residue amount was never paid and sought the reliefs, the detail whereof, has already been given in the earlier portion.

However, the petitioner-plaintiff had then filed an application under Order 6 Rule 17 CPC, wherein, he again reiterated about the deal struck with respondents-defendants, for an amount of Rs.2.80 crore and an amount of Rs.1.50 crore having paid and resident amount was Rs.1.30 crore, out of which, the amount spent on the approvals/sanctions to be deducted and the residue was to be paid, at the time of execution of the sale deed. However, it was asserted that Rs.75 lakh was mentioned as residue recovery, but Rs.55 lakh was never spent by the respondents-defendants and on the basis thereof, in this context, the proposed amendment is sought in paragraph Nos.8 to 22 of the application.

Further, in the application, it was asserted that the proposed amendment will also help Court to reach proper conclusion of the case and to decide the matter, more efficiently and also there will be no multiplicity of litigation between the parties, at a later stage. It was also asserted that no prejudice will be caused to the defendants.

In reply, the respondents-defendants resisted the claim of the petitioner-plaintiff. It was asserted that the petitioner-plaintiff himself had proved agreement dated 03.06.2013, in favour of replying respondent as Ex.P2, in which, it is recited that the property is to be sold for Rs.1.50 crores and an amount of Rs.1.13 crore has been received by the petitioner-plaintiff vide cheque No.459707 dated 03.06.2013 and an amount of Rs.37 lakh was

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received by him vide cheque No.618752 dated 03.06.2013 and also acknowledged that now the sale consideration has been received in full and nothing is balance from respondent-defendant No.1.

Furthermore, it has been denied that any other terms and conditions were settled, vis-a-vis, the agreement Ex.P2. The receipts were duly signed by the petitioner-plaintiff and witnessed by two witnesses, namely Nitin Saini and Avtar Singh and also signed by respondent-defendant No.1. Even, with regard to the necessary approvals/sanctions to be obtained, it is denied that Rs.1.30 crore was agreed to be paid, after making deduction and that the deductions were sought to the extent of Rs.55 lakh, to be made. Furthermore, also it was asserted that the suit is not within limitation to claim the relief, claimed by way of amendment. Hence, a prayer was made for dismissal of the application.

After hearing counsel for the parties, on appraisal of the material coming forth, learned trial Court considered the proposed amendment, which has been detailed in the application and had concluded about the same to be in the knowledge of the petitioner-plaintiff and on this account, it was held that the petitioner-plaintiff has not shown due diligence, as required by law and had dismissed the application. Not satisfied, the petitioner-plaintiff has filed the present revision petition.

Upon notice issued, the respondents made appearance.

Learned counsel for the parties heard.

So far as, the law with respect to amendment of the pleadings is concerned, the thumb rule is requirement of the proposed amendment for

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proper adjudication of the issue in hand. However, proviso to Order 6 Rule 17 CPC, specifically provides that no application for amendment shall be allowed, after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter, before the commencement of the trial. In the case in hand, as observed aforesaid, the trial had commenced.

As culled out from the paperbook, the suit was filed on 13.06.2014. The written statement was filed on 03.07.2014 and the replication was filed on 07.07.2014. The issues were framed on 17.05.2016. The evidence was led and petitioner-plaintiff examined his witness as PW-1 and filed his affidavit on 17.10.2016. However, his cross-examination was not conducted on that date.

Considering the stage of the case, when the application under Order 6 Rule 17 CPC was filed and furthermore, considering the detail of the contents of the plaint, as reproduced aforesaid and also considering the wriggling out of the amount of Rs.75 lakh, which related to the transaction, allegedly mentioned in the plaint, to have been accepted by the plaintiff, the amendment is sought to replace the words 'Rs.75 lakh' with 'Rs.1.30 crore'. Also to amend the relief of mandatory injunction, with relief of possession of the plot, which the petitioner-plaintiff himself, during the course of submissions made in the application under Order 39 Rule 1 and 2 CPC, has admitted about the entire agreed sale consideration to have been paid as well as possession of the property having been handed over to the vendee and even the possession has been taken by the vendee. This assertion itself

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reflects about the petitioner-plaintiff to be in know of the factual position, vis-a-vis, disputed transaction from the very beginning.

In the given circumstances, the petitioner-plaintiff himself was very well aware of the possession being there or not and on which account, mandatory injunction was earlier sought. Even, the petitioner-plaintiff wants to introduce plea of fraud, but however, in the plaint itself, he had stated about having accepted the transaction. Considering the same and also considering the recitals of the agreement dated 03.06.2013, which as such, is not disputed, it cannot be said that the petitioner-plaintiff was not in know of the facts, which are now proposed to be brought on record.

The manner of signing of the documents, vis-a-vis, the power of attorney, as such, is now attempted to be introduced after a period of five years, since filing of the suit. The Power of Attorney was registered at Rajpura, at the behest of the petitioner-plaintiff and in this manner, what was the influence exercised by the defendants, as such, once he had also made appearance, was a factor, which very well was in the knowledge of the petitioner-plaintiff, at the time of filing of the suit and seeking the relief as asserted.

Considering the same, in any manner, it cannot be said that while exercise of due diligence, the proposed amendment never came to the notice of the petitioner-plaintiff, at the time of filing of the suit. Rather, it has stands amply evident that the proposed amendment application is not bonafide and is a malicious attempt to overcome the legal omissions.

In view of the aforesaid, learned trial Court has appropriately



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dismissed the application for amendment of the plaint. The impugned order warrants no interference. Hence, the revision petition is bereft of merits and the same is dismissed.

**May 23, 2025**  
Vgulati

**(ARCHANA PURI)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**Yes/No**