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

CR-699-2025 (O&M)

Date of Decision : 10.09.2025

Harnek Singh & Ors ... Petitioner(s)

Versus

Daljit Singh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashish Gupta, Advocate for the petitioners.

Mr. Mudit Johar, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the impugned order dated 15.01.2025 (Annexure P-8) whereby the application filed by the defendant-petitioners under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC) for amendment of the written statement has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit in the year 2018 for permanent injunction for restraining the defendant-petitioners herein from interfering in the peaceful possession of the plaintiff-respondent and further for restraining the defendant-petitioners from dispossessing the plaintiff-respondent from the suit property. Written statement was filed. After the pleadings were complete, the issues were framed. Thereafter, at the time of rebuttal i.e. on 19.12.2024 the present application was filed for amendment of the written statement

wherein the defendant-petitioners wanted to amend para 5 of the preliminary objection by adding the following paragraph :

“It is worth mentioning here that half share of the suit property is still in the possession of the real brother of the plaintiff namely Sukhdeep Singh son of Mukhtiar Singh son of Jagir Singh, as said Sukhdeep Singh got the entire property from his father by way of agreement dated 07-04-2014. That thereafter Sukhdeep Singh sold ½ share of the suit property situated within the Lal Lakir of Village Burj Naklian to Gurdev Singh son of Harbachan Singh son of Bhan Singh R/o Village Burj Naklian vide agreement to sell dated 21-05-2015 for consideration of Rs. 1,00, 000/- coupled by the delivery of the possession. It is worth mentioning here that said Gurdev Singh further sold the suit property to Jaswant Singh son of Harnek Singh son of Anokh Singh R/o village Burj Naklian, Tehsil Raikot, Distt. Ludhiana vide agreement to sell dated 29-05-2015 for consideration of Rs. 2,00,000/- coupled by the delivery of the possession. It is further worth mentioning here that the aforesaid Jaswant Singh sold the suit property to Gurpreet Singh son of Jaswant Singh son of Harnek Singh R/O Village Burj Naklian, Tehsil Raikot, Distt. Ludhiana vide agreement to sell dated 27-07-2015 for a consideration of Rs. 2,50,000/- coupled by the delivery of possession. It is further worth mentioning here that said Gurpreet Singh further sold the suit property to defendant No.2 Harjit

Kaur vide agreement to sell dated 12-09-2018 for a consideration of Rs. 2, 60,000/- coupled by the delivery of possession. Copies of the all agreements are appended herewith and presently it is the defendant No.2 who is the owner in possession of the suit property. The plaintiff is neither the owner nor in possession of the suit property at all and the plaintiff having no right, title or any other concern with the suit property. The present suit has been filed by the plaintiff in active collusion with his father Mukhtiar Singh which is evident from the fact that on 12-09-2018 the defendant No.2 purchased the suit property from Gurpreet Singh as aforesaid and on 13-09-2018 very next day the plaintiff allegedly prepared the agreement to sell dated 13-09-2018 allegedly executed by Mukhtiar Singh in favour of the plaintiff which is forged and fictitious document. without consideration without delivery of the possession as Mukhtiar Singh has already given the suit property to his son Sukhdeep Singh vide agreement dated 07-04-2014 as aforesaid and the suit property has been alienated four times further coupled by the delivery of the possession and the suit property is a open space used for storage the cow dungs and animals etc.”

Reply was filed to the said amendment application and vide the impugned order dated 15.01.2025, the said amendment application has been dismissed.

Hence, the present revision petition.

3. Learned counsel for the defendant-petitioners would contend that the said amendment is only clarificatory in nature and would not change the defense as taken by the defendant-petitioners. It is further the contention that evidence has already been led and therefore no evidence is required to be led in this regard.

4. Per contra learned counsel for the plaintiff-respondent would contend that the application has been moved at the fag end of the trial i.e. at the stage of rebuttal and though the defendant-petitioners may have led the evidence qua the averments made now in the amended paragraph, however, the plaintiff-respondent cannot be taken by surprise inasmuch as without there being any pleadings, the plaintiff-respondent could not have led any evidence in this regard and since the onus of issue No.1 is on the plaintiff-respondent, he cannot now lead evidence in rebuttal, hence, it would amount to a *de novo* trial.

5. I have heard the learned counsel for the parties.

6. In the present case the application for amendment of the written statement, which has been filed at the fag end of the trial i.e. at the stage of rebuttal, merely states that the defendant-petitioners want to amend para 5 of the preliminary objection. There is not a word in the application as to why the said plea could not be raised earlier. Except for stating that it would not change the nature of the defense, no other explanation is forthcoming for not filing the said application earlier. The suit has been pending since 2018 and the present application has been filed in 2024. Further still, though it has been stated by the learned counsel for the defendant-petitioners that he would not want to lead any evidence, however, on a query put by the Court as to whether the evidence led qua the averments made in the proposed amended paragraph

would fall under issue No.1, learned counsel has candidly admitted that the evidence led was on issue No.1. Since the onus of issue No.1 was on the plaintiff-respondent, he possibly cannot now lead evidence in rebuttal on the said issue and permitting the amendment now would mean that the plaintiff-respondent would have to be given an opportunity to lead their evidence afresh on issue No.1 resulting in a *de novo* trial.

7. In view of the above, no fault can be found with the impugned order dated 15.01.2025 (Annexure P-8). I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.09.2025
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO