



IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

\*\*\*

CR-2928-2025

Date of decision : 14.05.2025

Hardev Singh

... Petitioner

Versus

Balwinder Singh

... Respondent

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr. Balbir Singh Jaswal, Advocate  
for the petitioner.

**VIKAS BAHL, J.(ORAL)**

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 28.01.2025 (Annexure P-8) passed by the trial Court vide which the application under Order 6 Rule 17 CPC filed by the respondent-plaintiff for amendment of plaint has been allowed.

2. Learned counsel for the petitioner has submitted that in the present case, the respondent had filed a suit for permanent injunction with respect to khasra no.45//6 and the same was filed after preparing the site plan dated 22.06.2023 and in the said site plan also, the rasta has been shown in khasra no.45//6. It is submitted that only when in the written statement it was pointed out by the petitioner that the said rasta is not in khasra no.45//6, then the application for amendment of plaint filed by the respondent-plaintiff. It is submitted that the said application has been



illegally allowed and the said order deserves to be set aside and the application filed by the respondent-plaintiff for amendment of plaint deserves to be dismissed. It is argued that since the present suit is a suit for permanent injunction, it was open to the respondent-plaintiff to file a fresh suit but he should not be permitted to amend the present suit.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned order has been rightly passed and the present petition being meritless deserves to be dismissed.

4. It is not in dispute that the date on which the application for amendment of plaint was filed, the issues had not been framed and thus, the suit was at pre-trial stage. Learned trial Court in the order dated 28.01.2025, after taking into consideration the law laid down by the Hon'ble Supreme Court in various judgments, observed that the purpose of amendment is to minimize the litigation and in case amendment sub-serves the ultimate cause of justice and avoids further litigation, the same should be allowed. It was further observed that the amendment in the present case is essential for the decision of the case and would help the Court in finally and properly adjudicating the matter and that the present petitioner-defendant would get a chance to rebut the amended plaint by filing the written statement to the said amended plaint. A perusal of the application dated 03.11.2023 would show that it has been stated on behalf of the plaintiff that on account of a typographical error, khasra no.45//6 has been mentioned in the plaint and in the relief clause and instead of the same, khasra no.45//7 is required to be mentioned and the necessary correction is to be done in the site plan. Since the issues had not been framed at the date of the filing of the application,



thus, the proviso to Order 6 Rule 17 CPC would not apply. It is a matter of settled law that all the amendments which are necessary for the purpose of determining the real question in controversy should be allowed. The amendment sought in the present case, as per opinion of this Court is necessary to fully and properly adjudicate the case. The plea raised by the learned counsel for the petitioner that the respondent can file a fresh suit would in effect lead to multiplicity of litigation, which could be avoided by upholding the impugned order, allowing the application for amendment filed in the present suit.

5. The Hon'ble Supreme Court in *Rajesh Kumar Aggarwal and others Vs. K.K. Modi and others* reported as *(2006) 4 Supreme Court Cases 385* has specifically observed that the cardinal principle for allowing an amendment is to see as to whether the same is necessary to decide the real dispute between the parties and at that stage, the Court should not go into the correctness or falsity or the merits of the case in the amendment. The relevant portion of the said judgment is reproduced as under: -

“xxx xxx xxx

*18. As discussed above, the real controversy test is the basic or cardinal test and it is the primary duty of the Court to decide whether such an amendment is necessary to decide the real dispute between the parties. If it is, the amendment will be allowed; if it is not, the amendment will be refused. On the contrary, the learned Judges of the High Court without deciding whether such an amendment is necessary have expressed certain opinions and entered into a discussion on*



***merits of the amendment. In cases like this, the Court should also take notice of subsequent events in order to shorten the litigation, to preserve and safeguard the rights of both parties and to subserve the ends of justice. It is settled by a catena of decisions of this Court that the rule of amendment is essentially a rule of justice, equity and good conscience and the power of amendment should be exercised in the larger interest of doing full and complete justice to the parties before the Court.***

***19. While considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. This cardinal principle has not been followed by the High Court in the instant case.***

xxx xxx xxx”

6. In the present case, by allowing the amendment, neither the trial Court nor this Court has opined that the plea raised by the plaintiff in the amendment is correct on merits. It is only that the plaintiff has been permitted to raise the said plea to which the present petitioner-defendant has right to file an amended written statement and on the basis of said plea, the trial Court would decide the case, in accordance with law.



7. Keeping in view the above said facts and circumstances, the impugned order passed by the trial Court is upheld and the present petition being meritless deserves to be dismissed and is accordingly dismissed.

**(VIKAS BAHL)**  
**JUDGE**

**May 14, 2025.**

*Davinder Kumar*

Whether speaking / reasoned  
Whether reportable

Yes/No  
Yes/No