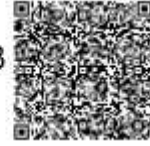


2025:PHHC:125363



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

**CR-433-2016 (O&M)  
Decided on:-11.09.2025**

Jagjit Singh and others

....Petitioners..

vs.

Balkar Singh and ors.

....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. T.P.S. Makkar, Advocate,  
for the petitioners.

None for the respondents.

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**HARKESH MANUJA J. (Oral)**

1. By way of present revision petition, challenge has been laid to an order dated 06.01.2016 (Annexure P-4) passed by the learned Civil Judge (Junior Division), Moga, whereby, on common application filed at the instance of petitioners-plaintiffs invoking Order 1 Rule 10 CPC and Order 6 Rule 17 CPC with a prayer for seeking impleadment of Harbans Singh, Gurmeet Singh, Manjit Singh and Gurmej Singh as defendants being the transferees-pendente lite, besides, laying down challenge to their transfer deeds by way of amendment in their plaint, stood rejected.

2. Briefly stating, the petitioners-plaintiffs filed a suit for declaration claiming ownership besides being in joint possession of 1/8th share each of the estate of deceased-Pal Kaur @ Palo @ Kirpal Kaur, situated at Village Bajeke, Tehsil and District Moga.

2.1. Upon notice, joint written statement was filed on behalf of the

respondents-defendants.

2.3 It has been stated on behalf of the petitioners-plaintiffs in their application that during pendency of the suit, it came to their notice that the subject property already stands alienated by the respondents-defendants. Accordingly, application under Order 1 Rule 10 CPC praying for impleadment of subsequent transferees namely, Harbans Singh, Gurmeet Singh, Manjit Singh and Gurmej Singh was filed with a further prayer under Order 6 Rule 17 CPC seeking amendment of plaint to the extent of laying challenge to the said transfers. The aforesaid prayer of the petitioners-plaintiff was opposed at the instance of respondents-defendants. The Id. Trial Court vide order dated 06.01.2016, dismissed the application filed by the petitioners-plaintiffs. Hence, the present petition.

3. Impugning the aforesaid order, learned counsel for the petitioners submits that the learned Trial Court failed to take into consideration the fact that once the suit property stood alienated by the respondents-defendants during pendency of the suit, in the interest of justice, it was essential to implead the subsequent transferees. He also submits that there was no delay on the part of the petitioners-plaintiffs in moving the application as they were misdirected by the respondents-defendants having supplied them the incorrect copy of the written statement. Learned counsel, thus, submits that the impugned order deserves to be set aside while allowing the application moved on behalf of the petitioners-plaintiffs.

4. No one has chosen to appear on behalf of the respondents for the past three hearing and today again no one appears and therefore, the present revision petition is being decided in their absence.

5. I have heard learned counsel for the petitioners and gone

through the paper book. I find substance in the submissions made on behalf of the petitioners.

6. A perusal of the record shows that the petitioners-plaintiffs were supplied a copy of the written statement that did not include the handwritten corrections made in the corrected written statement filed before the learned Trial Court by the respondents-defendants and thus, they could not come to know about the alienation made by the respondents-defendants in the beginning. It was only when DW-1 Kashmir Singh appeared before the learned Trial Court on 07.02.2015 and disclosed about the alienations, the petitioners-plaintiffs came to know of such material facts and soon thereafter, filed the application for impleadment of the subsequent transferees and also seeking amendment of plaint so as to lay challenge to the alienation made in their favour. The comparative chart of paragraph No.3 of the preliminary objections in the two written statements i.e. one filed before the learned Trial Court and the other copy of which was handed over to the petitioners-plaintiffs are extracted hereunder:-

<i>Written Statement handed over to the petitioners-plaintiff</i>	<i>Written statement filed before the Trial Court</i>
3. That land in dispute is not in possession of the answering defendants. It has already been transferred/sold by virtue of sale deed/transfer deed and it is the only source of income for them	3. That land in dispute is in possession of the answering defendants and it is the only source of income for them.

7. In the aforementioned circumstances, it is apparent that the respondents-defendants were wholly unfair in pursuing the litigation before the learned Trial Court and thus, the prayer made by the petitioners-plaintiffs could not have been declined merely on the ground of any delay, especially when no lack of due diligence or malafide was attributable to the petitioners-plaintiffs.

7.1 Be that as it may, once the factum of transfer of the suit property by the respondents-defendants was not disputed or denied categorically, the impleadment and the amendment sought for was not going to change of action or nature of the suit being based on the same foundation. Thus, in order to do complete and substantial justice to the parties and also to avoid another round of litigation, it was essential for the learned Trial Court to have ordered impleadment of the subsequent transferees in relation to the suit property and also permit the petitioners-plaintiffs to carry out necessary amendment in their plaint so as to lay challenge to the alienation, which even otherwise becomes required in order to pass an effective judgment and decree in the suit and to adjudicate the rights qua the subject property.

8. In view of the above discussion, the present petition is allowed, consequently, the order dated 06.01.2016 passed by the learned Civil Judge (Junior Division) Moga is hereby set aside. Accordingly, the application filed on behalf of the petitioners-plaintiffs is accepted and the “subsequent transferees” are ordered to be impleaded as party defendants in the suit filed on behalf of the petitioners-plaintiffs besides permitting them to carry out necessary amendment in their plaint as prayed for, in their application. The learned Trial Court is accordingly, requested to proceed further with the suit.

9. Pending applications, if any, also stand disposed of.

11.09.2025

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**(HARKESH MANUJA)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/ No