



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(124)

CR-5776-2025

Date of Decision:-26.08.2025

KESAR AND ANOTHER

... Petitioner

Versus

SANTRA DEVI AND OTHERS

... Respondents

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

Present:- Mr. Manish Mehta, Advocate  
for the petitioners.

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

This revision petition has been filed under Article 227 of the Constitution of India has been directed against the Order dated 13.05.2025, vide which, the application filed by the plaintiff under Order 6 Rule 17 of CPC for amendment of the plaint was allowed at the stage of final arguments after completion of evidence of both the parties in a suit for partition. After the parties concluded the evidence, respondents/plaintiffs came up with an application for amendment of the plaint on the grounds that when counsel was preparing arguments, it came to his notice that share of plaintiff No.2, who is owner in Khewat No.225/198, Khatoni No.268, Kila No.50//17/9 area 0-2 marla, Gair Mumkin manure pit, situated in Village Mirzapur, Tehsil Ateli having 2/15 share and the same was not included. He wants to include the property in the suit property. The application was contested by petitioner by filing a written reply. After hearing the arguments, vide impugned order, the learned ACJ, Senior Division, Narnaul has allowed the application. The relevant portion of the order is in Para Nos. 5 and 6, which his reproduced as under:-

*“5. In the present case, from the perusal of the case file, it is clear that the 2/15 share of khewat no.255//198, khatoni no. 268, mustatil and killa no. 50//17/9 measuring 0-2 marla gair mumkin which is*



*sought to be added in plaint by way of amendment is mentioned in jamabandi for the year 2013-14, Ex. P2. The present suit is that of possession by way of preliminary decree for partition and the law is settled that a person should mention all the properties to seek the relief of partition as a suit for partial partition is bad in the eyes of law. Even though the written statement filed by defendant no.3 which was later adopted by defendant no 5, 8 and 9 is silent on the aspect of partial partition, it is still the bounden duty of the plaintiff to ensure that his claim is valid in the eyes of law and the court shall ensure that all the necessary facts necessary for adjudication of real issue in controversy shall be brought on file. Thus, in order to ensure that the justice is done to the parties and the technical lapses do not fall in the way of delivery of justice, the court is inclined at allowing the present application to enable the plaintiff to bring all the facts on file which are necessary to arrive at just decision of the case.*

*6. However, having said that the applicant has shown complacency on his part and despite the fact that the court has proceeded with the trial and the evidence of the defendant was also concluded, the applicant has moved the application at such a belated stage for clerical error. Therefore, the applicant is burdened with the cost of Rs. 1,000/-. consequently, application at hand is allowed subject to the payment of cost of Rs. 500/- to be deposited in legal aid. Now, to come up on 04.07.2025 for filing amended plaint.”*

2. Counsel for the petitioner submitted that amendment of pleadings cannot be allowed on the ground of oversight and relied upon the law laid down by Hon’ble Apex Court in ***Basavaraj versus Indira and others, 2024 SCC online SC 208*** and by this Court in ***Mukesh Kumar versus Madhu Puri and Another, 2025:NCPHHC:84908***, wherein by relying upon the proviso to Rule 17 of Order VI, application for amendment of the pleadings has been declined by relying upon the judgment of Hon’ble Apex Court in ***Basavaraj vs. Indira*** (supra). He further relied upon the law laid down by Co-ordinate Bench of this Court in ***Narinder Singh and others vs. Swaran Singh and others, 2020 (3) RCR (Civil) 610,***



wherein a partition suit, amendment was sought at the stage of rebuttal and final hearing as in the present case and that application was with regard to leaving out the material facts due to computer printing error and the application was not allowed.

3. Now, considering the fact that by way of allowing the present amendment, the learned Court of Additional Civil Judge (Senior Division) has allowed the plaintiff to amend the plaint in order to incorporate other property as subject matter of the suit, which was not there earlier. It is settled law that suit for partition is barred on account of partial partition and in case, the respondents/plaintiffs would not have moved the application, then the suit would have been dismissed on the ground of partial partition but that would not have given any substantial right to the petitioner as respondent/plaintiff could have filed fresh suit for partition after incorporating the property left out. This would have put the parties to much inconvenience and subjected them to another round of litigation, so, considering the object of application for amendment of pleadings, allowed at a fag end of the trial, the case in hand is distinguishable from the judgments relied upon by the petitioner. Since, by allowing the application, no vested right of the petitioner has been taken away and it has not changed the nature of the suit rather it would help the parties to settle the dispute in this round of litigation only and will save them from another round of litigation, so, I find no illegality committed by the learned Additional Civil Judge, Senior Division, Narnaul by exercising the jurisdiction vested in the learned Court, as such, finding no merit in the present revision petition and the same is dismissed.

26.08.2025  
S. Pathania

(VIRINDER AGGARWAL)  
JUDGE

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