

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****115****CR-1428-2025 (O&M)****Date of decision: 10.03.2025****Daropadi @ Daropdi****...Petitioner(s)****Vs.****Ram Parkash and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

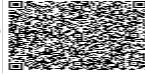
Present:- Mr. H.K.Aurora, Advocate for the petitioner.

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**NIDHI GUPTA, J.**

The plaintiff has filed the present petition under Article 227 of the Constitution of India praying for setting aside the impugned orders dated 20.12.2023, 18.5.2024 and 19.11.2024 (Annexures P-1 to P-3) passed by the Id. Civil Judge, Junior Division, Jalandhar whereby the application filed by the petitioner for amendment of the plaint, has been dismissed.

2. Learned counsel for the petitioner *inter alia* submits that the learned trial Court is in error in passing the impugned orders, as only a short correction/amendment was required in the present case which would not have altered the nature of the suit. It is submitted that inadvertently, the petitioner had filed the present suit seeking mesne profits and damages against the respondents for illegal use and occupation of the suit land stated to be measuring 40K 2M; whereas in actual fact, the defendants/respondents are liable to pay mesne profits



and damages for the land measuring only 12K 14 M. It is submitted that accordingly, petitioner had filed the present application for amendment of the plaint, which has been dismissed by the learned trial Court. It is accordingly prayed that the impugned orders be set aside.

3. No other argument is raised on behalf of the petitioner/plaintiff.

4. I have heard learned counsel for the petitioner/plaintiff and perused the case file in great detail.

5. Brief facts of the case are that the petitioner filed suit for possession against the defendants which was decreed by the Id. Trial Court vide judgment and decree dt. 17.8.2007. The appeal filed by the respondent was dismissed by the Id. Lower Appellate Court; and even the RSA No.763 of 2012 filed by the respondent was dismissed by this Court vide order dt. 17.1.2020 (Annexure P-4). Vide the above said concurrent judgment and decree, Gurbachan Lal/ defendant No.1, was directed to hand over the possession of suit land measuring 12 Kanals 14 marlas to the plaintiffs. However, Gurbachan Lal and his legal representative delivered the possession of suit land only in execution proceedings during the pendency of RSA. Both the Courts found the Gurbachan Lal to be in unauthorised possession. The present respondents are the legal heirs of Gurbachan Lal.

6. Accordingly, the petitioner had filed the present suit on 15.10.2016 for mesne profits and damages against the respondents for illegal use and occupation of the above-mentioned suit land. It is the case of



the petitioner that inadvertently, he had claimed mesne profits qua total land measuring 40K 2M instead of the decreed land measuring 12K 14M.

7. I find no merit in the arguments raised by the petitioner. It is an admitted fact on record that issues were framed by the learned trial Court vide order dated 14.10.2022 (Annexure P-6); the evidence of the plaintiff/petitioner was closed on 23.02.2023; evidence of the defendants stood closed on 14.09.2023; whereafter the present application for amendment of suit was filed by the petitioner on 17.10.2023 (Annexure P-7). The petitioner, therefore, had moved the present application at the fag end of the case. In this background, vide order dated 20.12.2023 (Annexure P-1), the learned trial Court has correctly dismissed the above said application holding the same to be vague and baseless filed with a view to delay the proceedings. Needless to say, the petitioner was very well aware of the decreed land; and has clearly failed to exercise due diligence. In this situation, petitioner could not have been allowed to amend the plaint as that would amount to changing the nature of the suit.

8. Against the order dated 20.12.2023 (Annexure P-1), the petitioner filed a review application which was inadvertently shown to be 'allowed' by the learned Civil Judge, Junior Division vide order dated 18.05.2024 (Annexure P-2). Accordingly, an application was filed by defendant No.1 to rectify the said order dated 18.05.2024. An application was also filed by the petitioner for submission of the amended plaint as the order dated 18.05.2024 revealed that review had been allowed. Vide impugned order dated 19.11.2024 (Annexure P-3), both the above said



applications, were disposed of by the learned Civil Judge, Junior Division, Jalandhar in the following terms:-

*“7. From the tone and tenor of the above said order as reproduced above, this Court is of the considered opinion that reasoned order has been passed by the Predecessor of this Court specifying that Court cannot review its own order or judgment merely because the parties are dissatisfied with it or because it has been discovered that another view could have been taken on the same facts and evidence. Further, Court has stated that power of review can only be exercised where there seems error or mistake that needs to be rectified. Accordingly, from the tone, tenor and essence of the order it can be seen to have an intent to be dismissed. The said application however due to inadvertent typographical error was allowed as mentioned in the said order. Further, intention of the Court can also be seen from the zimni order dated 18.05.2024 vide which after disposing of the said application of review, the Court fixed the case for rebuttal evidence of the plaintiff and not for filing amended plaint by the plaintiff, which would have been the case, in case the Court had the intention to allow the said review application.*

*8. Accordingly, in view of the above discussion, this Court is of the opinion that an inadvertent and technical error cannot be allowed to prejudice the defendant No. 1 and lead to a de novo trial. Accordingly, application filed by the defendant No. 1 is hereby disposed of with the direction that technical error stating the review application to be 'allowed' in order dated 18.05.2024 be read as 'dismissed' in view of the tone and tenor of the said order passed by the Predecessor of this Court. Accordingly, in view of the above discussion and order, the application filed by the plaintiff for submission of amended*



*Plaint as the order reveals that review has been allowed as per order dated 18.5.2024 by the predecessor Court stands dismissed.”*

9. Keeping in view the above facts, no ground to interfere in the impugned orders is made out. The present civil revision petition is hereby **dismissed.**

10. Pending applications, if any, stand disposed of.

**10.03.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No