

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Amarjot Bhatti, J.)

JASBIR KAUR

Vs.

SUKHDEEP KAUR

CR-1686-2019

Decided on : 15-07-2026

A. Civil Procedure Code 1908 (CPC) — Order 6 Rule 17 — Amendment of written statement — Belated change of stand not permissible — An amendment seeking to introduce, for the first time at a belated stage, a detailed and specific mode of payment of sale consideration — facts admittedly within the knowledge of the defendant since inception — when no such stand was taken at the time of filing the original written statement, cannot be allowed — Where the change of stand is sought only after change of counsel and once the case is fixed for the plaintiff's evidence, without any justification for the initial omission, the amendment amounts to an impermissible change of the defendant's original defence rather than mere clarification. [Paras 4-5]

B. Amendment of pleadings — Consistency with defendant's own prior stand in connected proceedings — Where the defendant's own stand taken in a connected anticipatory bail application (in a criminal case arising from the same transaction) specifies a different date and manner of payment of earnest money than what is now sought to be introduced by amendment of the written statement, the inconsistency between the two versions supports a finding that the proposed amendment is an afterthought rather than a bona fide correction of an inadvertent omission. [Para 4]

C. Article 227 of the Constitution — Supervisory jurisdiction — Interference with order declining amendment — Where the trial court, after due consideration of the facts and surrounding circumstances, declines an application for amendment of written statement on the ground that it introduces a belated and unjustified change of stand, no ground for interference is made out in the exercise of supervisory jurisdiction under Article 227, and such order is liable to be upheld. [Para 5]

Counsel for Appearing Parties

*Mr. M.L. Sagar, Senior Advocate assisted by Mr. Omesh Garg, Advocate for the Petitioner;
Mr. Aakash Singla, Advocate for the Respondent.*

JUDGMENT

Amarjot Bhatti, J. - Petitioner/defendant Jasbir Kaur filed civil revision under Article 227 of Constitution of India for setting aside impugned order dated 15.01.2019 (Annexure P-12) passed by learned Civil Judge (Junior Division), Jagraon in **Civil Suit No. 619 of 2015 titled "Sukhdeep Kaur Versus Jasbir Kaur"**, vide which application filed by present petitioner seeking amendment of written statement has been wrongly declined without appreciating the facts of case.

2. Learned counsel representing petitioner argued that in the case in hand, respondent/plaintiff Sukhdeep Kaur filed suit for declaration (Annexure P-1) that she is owner in possession of 10 marlas of land as detailed in the head note of plaint, situated in village Agwar Gujran-I, Tehsil Jagraon, District Ludhiana and challenged the draft sale deed dated 15.05.2014, got executed by petitioner/defendant in her favour from respondent/plaintiff as illegal, null and void and also decree for permanent injunction restraining defendant or her associates from dispossessing the plaintiff from the suit land. Said suit was contested by present petitioner/defendant by filing written statement (Annexure P-4), where in para Nos. 2 and 3, it was mentioned that entire sale consideration was already paid in the presence of marginal witnesses and thereafter, sale deed was presented before Sub Registrar, Jagraon for its registration. Inadvertently, certain facts were not mentioned correctly regarding the manner of payment of sale consideration, as a result, petitioner/defendant filed application under Order 6 Rule 17 read with Section 151 CPC (Annexure P-10), seeking amendment of written statement, as a result wanted to delete certain lines in para No. 3 of preliminary objections, para Nos. 2, 3 and 6 of written statement on merits and wanted to insert the lines as detailed in para No. 5 of application. By way of amendment, petitioner/defendant wants to add that earnest money of Rs. 2,50,000/- was paid on 05.04.2014, for NOC Rs.50000/- was paid on 17.04.2014 and balance sale consideration of Rs. 8,00,000/- was paid on 15.05.2014 and further the total amount was paid in the presence of Harnek Singh. On these lines, petitioner/defendant wanted to amend para No. 3 of preliminary objections and para Nos. 2, 3 and 6 of written statement on merits. Learned counsel representing petitioner/defendant has also annexed copy of anticipatory bail application (Annexure P-9) filed in FIR No. 217 dated 07.08.2014 under Section 420, 120-B IPC registered at Police Station City, Jagraon, where again in para No. 3, it was alleged by applicants including Sukhdeep Kaur - plaintiff that earnest money as per agreement to the tune of Rs.2,50,000/- was paid on 05.04.2014 and entry was made in agreement. Copies of sale deed got prepared by seller Sukhdeep Kaur along with declaration are Annexures P-2 and P-3. Therefore, no new fact was being incorporated in written statement. The proposed amendment is necessary for final adjudication of case. Without appreciating the aforesaid factual position, amendment application filed by petitioner/defendant was wrongly rejected. It is submitted that impugned order dated 15.01.2019 (Annexure P-12) passed by learned Civil Judge (Junior Division), Jagraon on application under Order 6 Rule 17 read with Section 151 CPC may kindly be set aside and amendment application

(Annexure P-10) may be allowed in view of the aforesaid facts and circumstances of case.

3. On the other hand, learned counsel representing respondent/plaintiff pointed out that respondent/plaintiff had agreed to sell the property for a sale consideration of Rs. 24,00,000/-. However, when the sale deed was scribed by Deed Writer at Jagraon on 15.05.2014, sale consideration was mentioned as Rs. 11,00,000/-. It was alleged that lesser sale consideration was mentioned to save the expenditure on stamp duty. The purchaser had assured to pay the balance amount before Sub Registrar. However, when sale deed was presented before Sub Registrar, it was claimed that entire sale consideration is already paid. Respondent/plaintiff raised objection and refused to appear before Sub Registrar, Ludhiana for registration of sale deed. Dispute had arisen on account of non-payment of full sale consideration. Sub Registrar, Jagraon had refused to register the sale deed. Present petitioner filed appeal against order dated 04.07.2014, which is pending before Additional Deputy Commissioner (ADC), Jagraon. Present petitioner/defendant by using her influence got the FIR registered against respondent/plaintiff and her family members. Proposed amendment claimed by petitioner/defendant in written statement is without any basis and afterthought. Considering the facts and surrounding circumstances, application was rightly declined by learned trial Court by passing impugned order dated 15.01.2019 (Annexure P-12) and said order does not require any interference.

4. I have considered the arguments and have gone through the record carefully. Respondent/plaintiff had filed suit for declaration (Annexure P-1) against petitioner/defendant Jasbir Kaur, claiming her title as well as possession in 10 marlas of plot and also challenged the draft sale deed dated 15.05.2014 as illegal, null and void, as detailed in the plaint. Petitioner/defendant filed written statement, where she took the stand that entire sale consideration was paid in the presence of marginal witnesses and sale deed was presented before Sub Registrar, Jagraon for registration. Copy of sale deed annexed with civil revision is Annexure P-5, in which sale consideration is mentioned as Rs. 10,50,000/-. From the documents annexed with civil revision, it is clear that one FIR No. 217 dated 07.08.2014 under Section 420, 120-B IPC, Police Station City, Jagraon is also registered against respondent/plaintiff Sukhdeep Kaur and others in which they had filed anticipatory bail application (Annexure P-9). In said anticipatory bail application, applicants/accused had taken specific stand to have received earnest money of Rs. 2,50,000/- and Rs. 50,000/- on 17.04.2014 as per agreement. Now, by way of proposed amendment, petitioner/defendant wants to take the stand that earnest money of Rs. 2,50,000/- was paid on 05.04.2014, sum of Rs. 50,000/- was paid for NOC on 17.04.2014 and balance of Rs.8,00,000/- was paid in the house of petitioner/defendant in the presence of Harnek Singh. Initially, at the time of filing of written statement on 07.07.2016, no such stand was taken. Case was fixed for plaintiff's evidence and on the change of counsel, this stand was taken for the first time by filing application seeking permission to amend the written statement. All the facts were well within the knowledge of petitioner/defendant. Mode of payment should have been mentioned initially when written statement was filed. At a belated stage, without any justification, petitioner/defendant cannot be allowed to change her stand altogether. Therefore, facts were rightly considered by learned trial Court while

disposing of the application under Order 6 Rule 17 read with Section 151 CPC (Annexure P-10).

5. In view of above, I do not find any valid reason to interfere in the impugned order dated 15.01.2019 (Annexure P-12) passed by learned Civil Judge (Junior Division), Jagraon and same is, accordingly, upheld. Consequently, finding no merits in present civil revision, same is, accordingly, dismissed.

6. Pending miscellaneous application(s), if any, shall stands disposed of accordingly.