

PBBT020001262021



IN THE COURT OF SHRI SANDEEP KUMAR, PCS,
CIVIL JUDGE JUNIOR DIVISION,
BATHINDA.
(UID NO. PB0583)

CIS. No.CS/104-2021
Date of Order: 03.07.2026
Pending for : 31.07.2026

Present: Sh.Sanjay Goyal,Adv for
applicants/plaintiffs
Sh.Rajiv Gupta,Adv for respondents/defendants no.1 and
2.
Sh.Abhey Singla,Adv for respondent/defendant no.3.
Sh.DK Gupta,Adv for defendant no.4
Defendant no.5 exparte

ORDER

Vide this order I shall dispose of an application moved by
applicants/plaintiffs for amendment in the plaint.

2. It is averred in the application that present suit has been
filed by the applicants/plaintiffs for declaration to the effect that the
plaintiff no.1 is share holder to the extent of 49 % share and plaintiff
no.2 is share holder to the extent of 51 % share in the business of
Patrol pump M/s Paramveer Auto Fuels, village Bhucho Kala, Tehsil
and District Bathinda. That in order to avoid any technical issue at the
later stage, the applicants/plaintiffs want to amend the plaint and
wants to make following amendments in the plaint:-

A) That now applicants/plaintiffs wants to substitute the words

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“Suit for declaration to the effect that...” in line no.1 in the heading of the plaint with words **“Suit for specific performance of agreement to sell dated 21.03.2017 executed by the defendant no.1 in favour of the plaintiff regarding sale/transfer of his 51 % share in the aforesaid patrol pump M/s Paramveer Auto Fuels, Village Bhucho Kalan and for declaring...”**.

B) That the applicants/plaintiffs also want to add the words **“decree for specific performance of agreement to sell dated 21.03.2017”** in line no.16 of para no.12 of the plaint, after the words **“plaintiffs are entitled to a”** and before the words **“decree for declaration”**.

C) That the defendant no.1 agreed to sell his total share in the patrol pump for a total sale consideration of Rs.1,25,00,000/- including the value of landed property under the aforesaid patrol pump and the sale deeds regarding the landed property have already been executed and after reducing the said amount of the sale deeds totaling Rs.53,00,000/-, the remaining amount for the transfer of patrol pump comes out to Rs.72,00,000/- on which a Court fee stamp of Rs.1,66,350/- is required to be paid and if the application under order 6 Rule 17 CPC is accepted by the Hon’ble Court for the amendment in the plaint, then the plaintiffs/applicants are also ready to deposit the said amount of Court fee stamp on the plaint and accordingly, the plaintiffs/applicants want to add the following new

lines in the end of par no.17 of the plaint as under:-

“The value of the suit for the relief of specific performance for transfer of patrol pump on the basis of agreement to sell dated 21.03.2017 is Rs.72,00,000/- on which a Court fee stamp of Rs.1,66,350/- is required to affixed on the plaint and the same is also being paid”.

D) That the plaintiff/applicants also want to add the words “Specific performance, decree for” in line no.2 of the prayer clause of the plaint at page no.17, after the words “decree for” and before the words “declaration, mandatory injunction”.

That the propose of amendements are very much material and necessary in the plaint for the complete and proper adjudication of all points in real controversy. Hence this application.

3. Upon notice, written reply has been filed on behalf of respondent/defendants No.1 and 2 and submitted that amendment is a total somer-soult on part of the plaintiffs/applicants from their earlier stance. Earlier they had claimed themselves to be owners of the patrol pump but now are seeking to convert and infact reduce their claim from declaration of ownership into a suit for specific performance of alleged agreement to sell dated 21.03.2017. Past conduct of the plaintiff against the provisions and spirit of alleged forged and fabricated agreement dated 21.03.2017 itself and legal implication involved cannot be wished away nor effaced/rubbed

away rather the same would be a continuing factor in determining and considering the conduct of the plaintiff for grant of possible relief as the plaintiffs are expected and required to remain true, ready and willing throughout from the date of alleged contract without any break or deviation. The courts cannot and ought not to lend any assistance to the plaintiffs in their unholy attempt to conceal their own blatant, dishonest act and conduct. On merits, all averments have been denied and prayed that present application may kindly be dismissed.

4. Upon notice, written reply has been filed on behalf of respondent/defendant No.3 and raised legal objections that applicant has no locus standi to file the present application; applicant is estopped from filing the present application by her act and conduct. It is further submitted that in case the proposed amendment is allowed then, jurisdiction of this Hon'ble Court shall also be affected because then the dispute between parties will become "commercial dispute" and the same can only be tried by "Commercial Court" and as such the application is liable to be dismissed. On merits, learned counsel for respondent/defendant no.3 submitted that plaintiff/applicant cannot be allowed to substitute the words "suit for declaration to the effect that" with words "suit for specific performance of agreement to sell dated 21.03.2017 executed by the defendant no.1 in favor of the plaintiff regarding sale/transfer of his 51% share in the aforesaid

patrol pump” because the alleged relief of specific performance has become time barred. Even otherwise the above said change in nature of claim will change nature of the suit. All remaining averments have been denied and prayed that present application may kindly be dismissed.

5. I have heard respective contentions of counsels for both the parties who argued in lines of their pleadings and have gone through the pleadings and other material documents on record carefully and minutely.

6. After considering the respective submission of learned counsels for the parties and after going through the pleadings in light of their submission, present suit had been filed originally by the plaintiffs for declaration that they are share holders in the business of petrol pump M/s Paramveer Auto Fuels Village Bhuchio Kalan, District Bathinda as per their respective shares on the basis of affidavit dated 09.08.2017 and on the basis of agreement to sell dated 21.03.2017 executed by defendant no.1 in favor of the plaintiff and further on the basis of sale deeds bearing no. 1021 dated 04.08.2017 and 1020 dated 04.08.2017 along with mandatory injunction directing the defendants no.1 and 2 to execute the requisite documents before defendants no.3 and 4 and also for directing the defendant no.3 to execute the fresh lease agreement with the plaintiff no.2 along with consequential relief of permanent injunction restraining defendant no.3 from stopping the supply of petroleum products to M/s Paramveer Auto

Fuels and from restraining the defendant no.4 from freezing the account of above said firm.

7. Now, the present application has been filed by the plaintiffs under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of the plaint by way of substituting the present suit by a suit for specific performance of agreement to sell dated 21.03.2017 executed by defendant no.1 in favor of the plaintiff regarding the transfer of his 51 % share in the aforesaid petrol pump M/s Paramveer Auto Fuels, village Bhucho Kalan.

8. On the other hand, defendant no.3 filed written reply and contested the present application on the grounds that the alleged relief of specific performance has become time barred and even otherwise the said change in the nature of claim will change the entire nature of the suit.

9. He relied upon various case laws titled as **Jagmahal Singh Vs Smt. Mehma Devi, 1999 (1) CCC, 0578 (P&H), Bharat Karsondass Thakkar Vs M/s Kiran Construction company and others, 2008 (2) CCC, 0561, Birendra Kumar Chourasia Vs Taneja Developer and Infra Structure Ltd. and Others, 2025 (1) Law Herald, Punjab, 0402, Radha Raman Sharma Vs Raj Kumar, 2025 (1) CCC, 0412 (P&H).**

10. After going through the aforesaid case laws, and in view of the law laid down by Hon'ble The Supreme Court of India in **A.K. Gupta and sons Ltd. Vs Damodar Valley Corporation, AIR 1967, SC, 96** wherein the Hon'ble Apex Court has laid down as general rule, that a party is not allowed by amendment to set up a new case or new cause of action,

particularly, when the suit on the new cause of action is barred. However, at the same time, the Hon'ble Supreme Court had further held that where the amendment does not constitute the addition of a new cause of action or raise a different case, but amounts merely to a different or additional approach to the same facts, the amendment would be allowed, even after expiry of statutory period of limitation, the present application on hand is dismissed since the relief claimed by way of amendment is clearly time barred not even at the time of filing the application for amendment rather at the time of filing the present suit. Moreover, the alleged amendment will change the entire nature of the present suit from the declaration to the specific performance of the agreement to sell in question. Therefore, application filed by the plaintiffs is hereby dismissed. However, anything contained in this order shall have no effect on the merits of case.

Now to come up on 31.07.2026 for filing written statement on behalf of defendants no.1,2 and 4.

Pronounced in open Court;
Dated: 03.07.2026

(Deepak Arora),
Stenographer

(Sandeep Kumar),PCS
Civil Judge (Junior Division),
Bathinda/ (UID: PB0583).

Sandeep Kumar, PCS
CJ(JD),Bathinda (UID-PB0583)
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