

**Ashok Kumar Sharma versus Asha & Another**

**Civil Suit No.7 of 2024**

04.05.2026 Present: Mr. Rajeev Sood, Advocate, for the plaintiff.  
Ms. Preeti, Advocate, vice Mr. Sunil Kumar, Advocate, for the defendants.

**OMP No. 1524 of 2025**

Reply to the application not filed. In this case, on 20.04.2026, in view of the persuasive submissions made by learned vice counsel for the respondents, last opportunity was granted to file the reply. Despite last opportunity, reply has not been filed. Further adjournment for this purpose is not justifiable. As such, the right of the respondent to file the reply is closed by the order of the Court.

2. Applicant/plaintiff, by moving the present application, under Order 6 Rule 17 of the CPC, has sought the indulgence of this Court to amend the head-note and prayer clause of the plaint, as well as, to insert para 13A, which are reproduced, as under:-

Head-note:

“Plaint under Order 7 Rules 1 and 2 read with Section 26 of the Code of Civil Procedure and Sections 5 and 7 of the Delhi High Court as applicable to Himachal Pradesh for recovery of Rs. 1 Crore 50 Lakh.”

13A. That after filing of the suit when the defendant No.1 and filed the written

statement then it has come to the knowledge of the plaintiff that the defendants No.1 and 2 vide legal notice dated 25.03.23 has also cancelled the agreement to sell and the said notice form the part of the record of the case and in view of that the defendant No.1 and 2 have not right to retain the money which they have received pursuant to agreement to sell dated 11.02.23 Rs. One Crore and Rs.45 lakhs which is received by defendant no.2 as power of attorney of defendant no.1 on 18.0.23 in cash and the receipt and the amount which the defendant no 2 has received from the plaintiff in cash is also filed for the perusal of this Hon'ble Court and the said receipt is in the handwriting of defendant no.2 and further the defendants have themselves cancelled the agreement as such under the law the defendants has got no right to retain the amount which they have received pursuant to agreement to sell and the amount of Rs.forty-five lakhs the amount which the defendants have received from the plaintiff.

Prayer :

“That the plaintiff therefore prays that a decree for Rs.1 crore 50 Lakhs along with cost of the suit and further interest at the rate of 18% per annum from the date of suit till realisation be passed in favour of the plaintiff as against the defendants and such other reliefs which this Hon'ble court may deem fit and proper in the facts and circumstances of the case may also been passed in favour of the plaintiff and as against the defendants.”

3. According to the applicant, the proposed amendment would not change the nature of the suit nor the same would cause any prejudice to the respondent. Apart

from this, a prayer has also been made that the above amendments are necessary for the just adjudication of the case, as the same are clarificatory in nature, just to correct the amount, sought to be recovered.

4. As stated above, reply has not been filed despite opportunities granted. Issues, in the present case, have not yet been framed, however, the defendants have filed the written statement. Considering the true scope of the procedural law, according to which, the parties should get opportunity to plead and prove their case, the application, under consideration, is allowed. The amended plaint, annexed with the application, is ordered to be taken on record. The application stands disposed of.

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Written statement to the amended plaint, if any, be filed within four weeks.

**(Virender Singh)  
Judge**

May 04, 2026 (ps)