

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CMPMO No. 371 of 2022****Decided on: 24.11.2025**

Sh. Deepak Kuthiala

... Petitioner

VersusLal Mangat Ram Kuthiala Charitable Trust
and another

... Respondents

Coram***Hon'ble Mr. Justice Ajay Mohan Goel, Judge.*****Whether approved for reporting?¹ Yes**

For the petitioner : Mr. Anuj Nag, Advocate.

For the respondents : Mr. Y.P. Sood, Advocate for
respondent No. 1.**Ajay Mohan Goel, Judge** [Oral]

By way of this petition, the petitioner has assailed the order 06.06.2022, passed by the learned Trial Court, in terms whereof, an application filed under Order 6, Rule 17 of the Code of Civil Procedure by the respondent herein, has been allowed.

2. Brief facts necessary for the adjudication of this petition are that post grant of permission by learned Advocate General, the respondent No. 1 herein has filed a suit under 92(f) of the Code of Civil Procedure, seeking permission of the Court to sell part of the suit property. The suit was filed against the General Public. During the pendency of these proceedings, an application was filed under Order 1, Rule 10 of the Code of Civil Procedure by the present

¹ Whether reporters of the local papers may be allowed to see the judgment?



petitioner for being impleaded as a party-defendant. Said application was allowed by learned Trial Court vide order dated 21.02.2019. Thereafter, an application was filed under Order 6, Rule 17 of the Code of Civil Procedure by present respondent for the amendment of the plaint, which stands allowed by the learned Trial Court in terms of the impugned order.

3. Learned Counsel for the petitioner has submitted that the order passed by the learned Trial Court, in terms whereof, the respondent-plaintiff has been allowed to amend the plaint is not sustainable in the eyes of law because the learned Trial Court has erred in not appreciating that the permission of the learned Advocate General was required before filing the application under Order 6, Rule 17 of the Code of Civil Procedure which was not there. He further argued that the amendment which has been allowed now takes the case outside the purview of Section 92(f) of the Code of Civil Procedure.

4. On the other hand, learned Counsel for respondent No. 1 submitted that the application for amendment of the plaint was necessitated by the fact that the petitioner was impleaded as a party-defendant in the civil suit and his impleadment necessitated the amendment in terms of the provisions of Order 1, Rule 10(4) of the Code of Civil Procedure, which conferred the right to amend the



plaint upon the plaintiff. Learned Counsel further submitted that even otherwise the case which is now being propounded by learned Counsel for the petitioner was not so set up in the reply filed to the application under 6, Rule 17 of the Code of Civil Procedure and otherwise also, as the order under challenge suffers from no infirmity, the present petition, being devoid of any merit, is liable to be dismissed.

5. I have heard learned Counsel for the parties and carefully gone through the impugned order as well as other documents appended with the petition.

6. It is not in dispute that the respondent No. 1 herein instituted a suit under Section 92(f) of the Code of Civil Procedure. It is not in dispute that the suit has been filed after the grant of necessary permission by the learned Advocate General. This Court is of the considered view that once the permission in principle was granted by learned Advocate General to pursue the case under Section 92(f) of the Code of Civil Procedure in favour of the present respondent, this did not mean as if before each and every pleading to be filed by the plaintiff, a fresh permission was required to be taken from learned Advocate General. If this contention of learned Counsel for the petitioner is accepted then there will be a situation that before any pleading is filed, the permission of learned Advocate



General would have to be taken by the plaintiff. As far as the other contention of learned Counsel for the petitioner that by virtue of the amendment, the suit has been taken away from the purview of Section 92(f) of the Code of Civil Procedure is concerned, this Court is of the considered view that as the amendment in the plaint has been allowed, such objection can be raised by the petitioner in the written statement or if so advised, the petitioner can always file an application under Order 7, Rule 11 of the Code of Civil Procedure seeking rejection of the plaint, if according to the petitioner, the plaint is barred by law. However, this does not render the order under challenge to be bad in law because it is not in dispute that the application for the amendment of the plaint was allowed only after the present petitioner was impleaded as a defendant and that too on his own application for impleadment.

Accordingly, in the light of above observations, as this Court does not find any merit in the present petition, the same is dismissed. Interim stands vacated. Parties through their respective Counsel are directed to appear before the learned Trial Court on 15.12.2025. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 24, 2025
(narender)