

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****CMPMO No. 690 of 2025
Decided on: 28.11.2025**

Ganga Ram (deceased) through LR's.

..... Petitioners

Versus

Kuldeep and others

.....respondents

Coram:**Hon'ble Mr. Justice Bipin Chander Negi, Judge**Whether approved for reporting? ¹

For the petitioners : Mr. Varun Rana, Advocate and
Mr. Suneet Verma, Advocate.**For the respondents** : Nemo.

Bipin Chander Negi, Judge (oral)

The present petition has been preferred against the impugned order dated 03.09.2025, passed by the learned Civil Judge, Court No. 1, Sundernagar, District Mandi, H.P. in CMA No. 390 of 2025, titled Kuldeep and others vs. Ganga Ram and others, whereby an application filed by the respondents herein, seeking amendment of the plaint has been allowed, vide the impugned order.

2. The respondents herein are the plaintiffs before the learned trial Court. They had filed a suit for declaration, permanent prohibitory and mandatory injunction against the present petitioners/defendants. In the suit so filed, a challenge

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



had been laid to the revenue entries made in favour of the present petitioners/defendants, whereby proprietary rights qua the suit land had been confirmed on the predecessor-in-interest of the present petitioners/defendants being a non occupancy tenant upon the suit land. In the suit, it has been contended that the predecessor-in-interest of the present petitioners/defendants was not a non occupancy tenant and hence the corresponding revenue entries conferring proprietary rights, are bad in law. Alongwith declaration so sought, a consequential relief of permanent prohibitory injunction and mandatory injunction had also been sought for.

3. At this juncture, it would be appropriate to reproduce the relief of mandatory injunction as was being sought by the present respondents/plaintiffs in the trial Court:-

“(vi). That the decree of mandatory injunction may also be passed in favour of plaintiffs and against the defendant and directing him to deliver the possession of the suit land to the plaintiffs without demur and restore the suit land into its original nature in the event if he succeeds in his acts during the pendency of the suit.”

4. In the aforesaid backdrop when the matter came to be listed for final arguments, an application under Order 6 Rule 17 of CPC was filed by the present respondents/plaintiffs. What that was sought to be incorporated in the aforesaid relief reproduced here-in-above was the following:-



“In alternately if this Id. Court comes to the conclusion that the plaintiff is out of possession of the suit land then A decree of possession may also be passed in the favour of the plaintiff and against the defendants”.

5. The application was opposed as being not maintainable, as the same was filed at the time when the matter was fixed for arguments. In terms of proviso of Order 6 Rule 17 of CPC, the same should have been filed prior to commencement of trial, i.e, before framing of issues. On merits, it was contended that the nature of the suit would change on account of the plea that was sought to be raised.

6. In the aforesaid backdrop, the learned trial Court was of the view that since the plea of possession had been taken initially by the present respondents/plaintiffs, the amendment proposed to be made would not change the nature of the suit. Only the way and manner in which the relief of possession had been claimed, was now sought to be couched differently. Other than the aforesaid, the trial Court was of the view that to do complete substantial justice inter-se the parties, it would be appropriate, if the respondents/plaintiffs are permitted to put-forth their complete plea, hence the application had been allowed.

7. At the very outset, it would be appropriate to refer to the authoritative pronouncement of Apex Court in SLP (Civil) No. 30324/2019, titled Dinesh Goyal @ Pappu vs. Suman Agarwal



(Bindal) & Ors., decided on 24.09.2024. Relevant extract whereof reads as under:-

11.2 Over the years, through numerous judicial precedents certain factors have been outlined for the application of Order VI Rule 17. Recently, this Court in **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr.**, after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:-

- (i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.
- (ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.
- (iii) Amendments, while generally should be allowed, the same should be disallowed if –
 - (a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.
 - (b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)
 - (c) The amendment completely changes the nature of the suit;
 - (d) The prayer for amendment is malafide,
 - (e) By the amendment, the other side should not lose a valid defence.
- (iv) Some general principles to be kept in mind are –
 - (i) The court should avoid a hyper-technical approach; ordinarily be liberal, especially



when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

8. In my considered view, since the plea of possession was raised initially and now is sought to be couched differently, no injustice or prejudice would be caused to the other side, if in case the present amendment is allowed. Even otherwise, the amendment is necessary for determining the real question in controversy inter-se the parties. The same would help in effecting a proper adjudication of the controversy between the parties. The nature of the suit is not going to change on account of amendment now sought to be made. In view of the aforesaid, I see no reason to interfere in the order dated 03.09.2025. Therefore, the present petition is dismissed, being devoid of merits.

9. Pending application(s), if any, also stand disposed of.

(Bipin Chander Negi)
Judge

November 28th, 2025
Susheel