



CR-3149-2026

Date of Decision: 10.04.2026

PREM SINGH

...Petitioner

Vs.

PALA RAM

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Ravi Malik, Advocate
for the petitioner.**VIRINDER AGGARWAL, J. (Oral)**

1. The present revision petition has been filed under Article 227 of the Constitution of India, assailing the order dated 09.03.2026 passed by the learned Additional Civil Judge (Senior Division), Ambala, whereby the application filed by the petitioner-defendant under Order VI Rule 17 CPC has been dismissed.

2. Briefly stated, the respondent-plaintiff, Pala Ram, instituted a civil suit seeking a decree of permanent injunction restraining the petitioner-defendant from forcibly and illegally dispossessing him from the suit property and from interfering in his peaceful possession thereof. The plaintiff pleaded ownership/possession over the suit property and apprehended unlawful interference at the hands of the defendant. The said suit was contested by the petitioner-defendant by filing a detailed written statement, wherein the averments made in the plaint were specifically denied and disputed. During the pendency of the suit, and at a stage when the matter had already been fixed for the defendant's evidence, the petitioner-defendant moved an application under Order VI Rule 17 CPC seeking amendment of the written statement. By way of the proposed amendment, the petitioner sought to incorporate an



additional preliminary legal objection based on the principle of *res judicata*, contending that the suit was barred on account of earlier adjudication between the parties. However, the learned Civil Judge (Senior Division), Ambala, vide the impugned order dated 09.03.2026, dismissed the said application for amendment. Being aggrieved by the aforesaid order declining permission to amend the written statement, the petitioner–defendant has preferred the present revision petition.

3. Learned counsel for the petitioner contended that the learned Trial Court has failed to appreciate the settled legal position governing amendment of written statements. It is submitted that the law relating to amendment of written statements is comparatively more liberal than that applicable to amendments of plaints, as the defendant is entitled to raise all permissible defences so as to effectively contest the claim of the plaintiff. Learned counsel further contended that the proposed amendment merely seeks to incorporate an additional legal plea of *res judicata*, which is purely a question of law and can be raised at any stage of the proceedings, even in appeal, provided it does not require elaborate evidence or cause prejudice to the opposite party. Learned counsel further contends that learned Trial Court has erred in mechanically applying the “due diligence” test and in overlooking that the proviso to Order VI Rule 17 CPC is primarily intended to regulate amendments of pleadings at the instance of the plaintiff, and is not to be applied with the same strictness in the case of written statements.

4. Learned counsel further contended that the learned Trial Court proceeded on an erroneous assumption of prejudice, whereas the proposed amendment does not alter the nature of the defence already set up, nor does it



introduce any inconsistent or mutually destructive plea. The amendment, it is submitted, is only clarificatory in nature and is intended to place the complete defence of the petitioner on record. He further submitted that mere delay in filing the application for amendment cannot, by itself, be a valid ground for rejection of an otherwise legally permissible and bona fide defence, particularly when no irreparable prejudice is likely to be caused to the respondent-plaintiff.

5. A perusal of the impugned order reveals that the learned Civil Judge has recorded detailed reasons while dismissing the application for amendment. It has been noted that the suit was instituted on 10.10.2019 and the written statement was filed by the petitioner-defendant on 09.03.2020. Thereafter, the plaintiff led his evidence and concluded the same on 03.10.2025. The matter had progressed substantially, and the petitioner had already been granted four effective opportunities to lead his evidence; however, the petitioner failed to examine even a single witness during the said opportunities. It has further been observed by the learned Trial Court that the judgment sought to be relied upon by the petitioner for raising the plea of *res judicata* was not a proceeding to which the respondent-plaintiff was a party. The Trial Court also recorded a finding that the facts and the document sought to be introduced by way of amendment were within the knowledge of the petitioner at the time of filing of the original written statement itself, and no satisfactory explanation has been furnished for the belated request to incorporate the said plea at such a late stage of the proceedings. The learned Civil Judge further observed that a mere change of counsel cannot be a valid ground to permit amendment of pleadings, particularly when the proposed



amendment appears to have been sought at a highly belated stage. It was also held that the application has been moved with a *mala fide* intention to delay and prolong the litigation. The Court reasoned that if such amendment were to be allowed at this advanced stage, it would inevitably result in reopening of the entire trial and would virtually amount to a de novo trial, thereby causing serious prejudice to the plaintiff and defeating the expeditious disposal of the suit. In support of its conclusion, the learned Trial Court placed reliance upon the judgments of the Hon'ble Supreme Court in ***Revajeetu Builders and Developers v. Narayanaswamy & Sons and others***, 2010 (1) RCR (Civil) 27 and ***B.K. Narayana Pillai v. P.P. Pillai and another***, 2000 (11) PLR 547.

6. By way of the proposed amendment, the petitioner-defendant seeks to incorporate an additional plea in the written statement that the suit is barred by the principle of *res judicata*. The present suit is one for permanent injunction, wherein the respondent-plaintiff claims protection of his alleged settled and continuous possession over the *bada* in question and seeks to restrain the defendant from forcibly dispossessing him therefrom. It is pertinent to note that the respondent-plaintiff was not a party to the alleged previous litigation on which the plea of *res judicata* is sought to be founded. Therefore, at the outset, the applicability of the said principle itself is seriously in question. It is further relevant that, although in paragraph No.4 of the written statement the respondent-plaintiff has referred to an agreement to sell executed by Jawali Devi, widow of Ran Singh, in his favour, the plaintiff's primary and consistent case is that he has been in settled possession of the suit property for more than 30 years, much prior to the said agreement. The relief sought in the suit is limited in nature, namely, protection of his alleged long-



standing possession from threatened forcible dispossession by the defendant. In these circumstances, the suit essentially revolves around the question of possessory rights and interference, rather than title, and the proposed plea of *res judicata* is sought to be introduced at a highly belated stage, despite the foundational facts having been within the knowledge of the petitioner at the time of filing of the original written statement. Furthermore respondent/plaintiff was not party to that previous suit.

7. Where the respondent-plaintiff was admittedly not a party to the earlier litigation, the learned Civil Judge has rightly declined the application for amendment by observing that the petitioner-defendant was fully aware of the said judgment at the time of filing of the written statement itself. Despite such knowledge, no plea of *res judicata* was raised at the appropriate stage, and the petitioner has failed to demonstrate the exercise of due diligence in seeking the proposed amendment at such a belated stage. The learned Trial Court has further held that the amendment has been sought at the fag end of the trial, when the plaintiff has already concluded his evidence, and the matter had substantially progressed. Allowing such an amendment at this stage would not only reopen the entire trial but would also virtually amount to a *de novo* trial, thereby causing serious prejudice to the plaintiff and inevitably resulting in unnecessary prolongation of the litigation.

8. In view of the aforesaid discussion, and finding no merit in the present revision petition, the same is hereby dismissed.

(VIRINDER AGGARWAL)
JUDGE

10.04.2026

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No