

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CR-3353-2026**Date of decision: 21.04.2026****Jaswinder Kaur**

. . . . Petitioner

Vs.

Dheeraj Sharma since deceased through his LRs

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Rakesh Kumar, Advocate, for the petitioner.

DEEPAK GUPTA, J.

The present revision petition is directed against the order dated 13.01.2026 (Annexure P-5) passed by the learned Additional Civil Judge (Senior Division), Kapurthala, whereby the application filed by the plaintiff–petitioner under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint has been dismissed.

2. The facts, in brief, are that the petitioner instituted a suit for specific performance of an agreement to sell dated 18.11.2016, along with a consequential relief of confirmation of possession. In the plaint, a categorical stand was taken that possession of the suit property had already been delivered to the petitioner. The respondents–defendants, however, contested the suit and specifically pleaded that the petitioner was never put in possession of the property.

3. During the course of trial, the petitioner, while appearing as PW-1, admitted in her cross-examination that she was not in possession of the suit property and that the defendants were residing therein. Despite such admission and despite the clear stand taken by the defendants in the written statement, the petitioner did not seek any amendment of the plaint at the relevant stage. The parties thereafter led their respective evidence and the matter reached the stage of rebuttal evidence.



4. At that juncture, the petitioner moved an application seeking amendment of the plaint by deleting the words “confirmation of possession” from the relief clause, thereby in effect converting the nature of the relief into one for possession by way of specific performance.

5. The learned trial Court, upon consideration of the matter, dismissed the application holding that the same had been filed at a belated stage after commencement of trial; that the petitioner had prior knowledge of the facts; that no due diligence had been shown; and that the proposed amendment would change the nature of the suit.

6. Assailing the impugned order, learned counsel for the petitioner contends that the amendment sought is necessary for determining the real controversy between the parties and that the Court is empowered to allow amendment at any stage in order to do complete justice. Reliance is placed on ***Surender Kumar Sharma vs Makhan Singh, 2009 (10) SCC 626***. It is argued that the proposed amendment is merely clarificatory in nature and does not introduce a new cause of action.

7. Having heard learned counsel for the petitioner and perused the record, this Court finds no merit in the present revision petition.

8. It is trite that though amendments to pleadings are to be liberally allowed to advance the cause of justice, such power is circumscribed by the proviso to Order 6 Rule 17 CPC, which mandates that no amendment shall be allowed after commencement of trial unless the Court is satisfied that despite due diligence, the party could not have raised the matter before the commencement of trial.

9. In the present case, the petitioner was not only put to notice through the written statement that she was not in possession of the suit property, but she herself admitted this fact during her cross-examination. Even thereafter, sufficient opportunity was available to seek amendment before the commencement of defendant’s evidence or at least during the course of trial. However, no such step was taken. The application has been filed only after the conclusion of evidence, when the case had reached the stage of rebuttal evidence.



10. The requirement of “due diligence” is thus conspicuously absent. The omission on the part of the petitioner appears to be deliberate and cannot be permitted to be rectified at such a belated stage.

11. Moreover, the amendment sought is not merely formal or clarificatory. By deleting the words “confirmation of possession,” the petitioner seeks to alter the nature of relief from one based on alleged existing possession to one seeking recovery of possession. This would inevitably change the complexion of the suit and prejudice the defence already set up by the respondents.

12. The argument that amendment can be allowed at any stage to do complete justice cannot be accepted in absolute terms. The concept of complete justice must operate within the statutory framework. The proviso to Order 6 Rule 17 CPC is a clear legislative mandate intended to prevent belated and mala fide amendments. Permitting such an amendment in the present case would defeat the very object of the proviso and render the trial proceedings nugatory.

13. The learned trial Court has, thus, rightly exercised its discretion in declining the amendment, and no illegality, perversity or jurisdictional error is made out warranting interference by this Court in exercise of its revisional jurisdiction.

14. Accordingly, finding no merit in the present revision petition, the same is hereby dismissed. Pending applications, if any, shall also stand disposed of.

21.04.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether reportable

Yes
No