



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 8024/2026

Bhawani Singh Shekhawat S/o. Sh. Jeevraj Singh Shekhawat,
aged about 62 Years, R/o. Care Khem Singh Shekhawat, Plot No.
239, Second Avenue, Gome Defense, Vaishali Nagar, Jaipur
(Raj.)

----Petitioner

Versus

Fanishwar Sharma S/o. Sh. Shamsher Singh, aged about 59
Years, R/o. 583, Barkat Nagar, Jaipur

----Respondent

For Petitioner(s) : Mr. S.K. Gupta, Sr. Adv. with
Ms. Surabhi Agarwal
For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA
Order

06/05/2026

1. The present writ petition has been filed by the petitioner under Article 227 of the Constitution of India, assailing the order dated 03.01.2026, passed by the learned Additional Senior Civil Judge No. 9, Jaipur Metropolitan-I, in Civil Suit No. 14/2012 titled '*Fanishwar Sharma vs. Bhawani Singh*', whereby the plaintiff/respondent's application dated 11.09.2025 filed under Order 6 Rule 17 of the CPC, seeking addition of Para No. 8(क) in the plaint, has been allowed.

2. Brief facts giving rise to the present writ petition are that the plaintiff/respondent filed a suit seeking declaration, possession, and permanent injunction with respect to the suit property, stating in the plaint that the plaintiff is the rightful owner of the suit property by virtue of an allotment letter dated 26.04.1981, issued by Gulab Bari Bhawan Nirman Sahkari Samiti Limited; accordingly, the plaintiff/respondent sought the relief of declaration, possession, and permanent injunction.



3. Upon service in the said suit, the petitioner replied to the suit vide a written statement, vehemently opposing the averments of the plaint. It was contended in the written statement that the petitioner is the rightful owner of the suit property by virtue of a sale deed dated 21.05.2009, executed by *Jabbar Singh s/o Gokul Singh*. It was further averred that the petitioner has been in long-standing possession over the suit property, and accordingly, prayed for dismissal of the suit.

4. That at the stage of plaintiff evidence, the plaintiff/respondent filed an application dated 11.09.2025 under Order 6 Rule 17 of the CPC, seeking an amendment in the plaint on the premise of an order dated 27.03.2025 in Civil Suit No. 144/2024, wherein the suit for permanent injunction filed by the petitioner in respect of suit property was dismissed. It was averred therein that by virtue of the said order dated 27.03.2025, it is well proved that the petitioner's possession over the suit property is unlawful, thus, the plaintiff/respondent is entitled to seek mesne profits @ Rs.20,000/- per month from the petitioner in respect of the suit property.

5. The petitioner contested the said application under Order 6 Rule 17 of the CPC, by filing reply thereto stating therein that the petitioner has preferred an appeal against the order dated 27.03.2025; thus, the said order has not attained finality; further proposed amendment will change the nature; and the same is highly delayed and accordingly prayed for the rejection of the said application.

6. The learned Trial Court, after hearing the arguments of the parties and carefully considering the averments in the application





as well as the reply thereto, allowed the plaintiff/respondent's application under Order 6 Rule 17 of the CPC, and allowed the amendment as prayed for therein.

7. Aggrieved by the same, the petitioner has preferred the present writ petition.

8. Learned counsel for the petitioner submits that the learned Court below erred in allowing the amendment merely on the ground that the suit instituted by the petitioner was dismissed on 27.03.2025, while overlooking that an appeal against the same is still pending. He contends that during the pendency of that appeal, the amendment sought for by the plaintiff/respondent ought not to have been allowed. He further submits that the amendment application under Order 6 Rule 17 of the CPC has been moved at a belated stage, and it changes the nature of the suit, accordingly prayed for setting aside the impugned order dated 03.01.2026.

9. Heard learned counsel for the petitioner and perused the material available on record.

10. From a bare perusal of the record, it is revealed that the Court, while allowing the amendment application preferred by the plaintiff/respondent, has permitted the incorporation of an additional Para No. 8(क) in the plaint, which is reproduced as under:

“8(क) –यह कि प्रतिवादी द्वारा वादी के भूखंड संख्या 96(पुराना नम्बर) तथा (नया नम्बर 173) पर अनाधिकृत कब्जा कर उपयोग उपभोग किया जा रहा है। इसलिए वादी प्रतिवादी से उक्त भूखंड संख्या 96(पुराना नम्बर) तथा (नया नम्बर 173) का अन्तःकालीन लाभ (Mesne Profit) 20,000/-रूपये अक्षरे बीस हजार प्रतिमाह दर से दायरी दावे से प्राप्त करने का अधिकारी है।”

11. From a perusal of the record, it is evident that the main relief in the suit is for declaration, possession and injunction, thus, the





amendment sought for is merely ancillary to the main relief claimed in the plaint, and the learned Trial Court has rightly observed that only on the occasion that the decree is passed, the question of mesne profits would arise for consideration. Further, it is also evident that the amendment sought to be incorporated does not change the nature of the suit; rather, it is purely ancillary in nature to the main relief as the suit remains to be suit for declaration, possession and injunction.

12. As far as the contention raised by learned counsel for the petitioner, qua that the application being highly delayed, is concerned, a bare reading of the impugned order reveals that in the suit, the evidence has not been started and the learned Trial Court while taking guidance from the judgment passed by the Hon'ble Supreme Court in the matter of **Ramesh Kumar Agarwal Vs. Rajmala Exports Private Ltd. & Ors.**¹ and also considered the aspect of delay, in order to compensate the petitioner, imposed a cost of Rs. 5,000/- on the plaintiff/respondent for the alleged delay in filing the application, which is well within the scope of Order 6 Rule 17 of the CPC. Therefore, the arguments advanced by learned counsel for the petitioner cannot be accepted.

13. It is trite law that the purpose and object of Order 6 Rule 17 of CPC is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. The amendment of pleadings under Order 6, Rule 17 is to be allowed if such an amendment is required for proper and effective adjudication of controversy between the parties and to avoid multiplicity of

1 S.L.P. (Civil) No. 27961 of 2010





judicial proceedings. Mere delay in making an amendment application itself is not enough to refuse amendment, as the delay can be compensated in terms of money.

14. In view of the foregoing discussion, the impugned order appears to be well-reasoned, justified, and well within the four corners of the provisions of Order 6 Rule 17 of the CPC. Further the scope of interference in the petitions filed under Article 227 of the Constitution of India in the matter of allowing the amendment in the plaint that too at such nascent stage of trial is quite restricted.

15. Even otherwise, the petitioner-defendant will always be at liberty to controvert the amended pleadings on merits by filing an amended Written Statement during the course of the trial.

16. In that view of the matter, this Court is of the considered opinion that the impugned order does not suffer from any jurisdictional error, perversity or legal infirmity so as to call for any interference under Article 227 of the Constitution of India.

17. Accordingly, the present writ petition fails and is hereby dismissed.

18. All other pending application(s), if any, stand disposed of.

(MANEESH SHARMA),J

SOURAV /2