



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No. 651 of 2025
Decided on : 05.01.2026

Nikhil
...Petitioner
Versus
M/s Shourya Industries and another
...Respondents

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

For the petitioner : Mr. Suneet Goel, Senior Advocate,
with Mr. Vivek Negi, Advocate.
For the respondents : Mr. Rajneesh K. Lall, Advocate,
for respondent No.1.
Ms. Chetna Thapar, Advocate, for
respondent No.2.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has assailed order dated 03.11.2025, passed by learned Senior Civil Judge, Nahan, District Sirmour, H.P., in CMA No. 728/6 of 2025, in Civil Suit No. 124/25, in terms whereof, application filed under Order VI, Rule 17 of the Civil Procedure Code (hereinafter referred to as 'CPC), by the respondent/plaintiff, stands allowed and the

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

plaintiff stands permitted to carry out amendment in the plaint.

2. Brief facts necessary for the adjudication of this petition are that the respondent-plaintiff has filed a suit for permanent as well as mandatory injunction against the defendants, which is pending adjudication. The copy of the original plaint is appended with the petition as Annexure P-1. In terms of the averments made in the plaint, a decree is sought against the defendants for restraining them from causing any interference or any sort of damage to the suit property, description whereof has been given in the plaint, comprised in khata khatauni No. 243min/335min, Khasra No. 1013/346/176/2, total measuring 01-00-00 bigha, situated at mauza Moginand, Tehsil Nahan, District Sirmour, H.P. It is a matter of record that no written statement has yet been filed to the plaint.

3. The suit was instituted in the month of October, 2025. Thereafter, in the month of October, 2025 itself, an application was filed by the plaintiff under Order VI, Rule 17 of the CPC, praying for amendment in the plaint. It was averred the application that due to inadvertence and typographical

error, the khasra number mentioned in the plaint was khasra No. 1013/346/176, measuring 00-16-00 bighas instead of khasra no. 1018/346/176, measuring 02-19-00 bighas, as per copy of Jamabandi for the year 2008-2009 and a prayer was accordingly made that the proposed amendment be allowed to be incorporated in the plaint.

4. In terms of the order under challenge, learned Trial Court has allowed the said application by returning the following reasonings:-

"5. Ld. counsel for the respondent has argued that order 6 Rule 17 CPC provides that if the amendment could not have brought despite of exercising due diligence then only it could be brought under Order 6 Rule 17 CPC and so provision is clear and this application cannot be allowed and placed reliance upon "2010(2) Him L.R.904 Harmehtab Singh Rarewala versus Jagteshwar Prit Singh Rarewala & Ors.", however, the facts differ as in this case as in that case application has been moved after taking several opportunities to lead the evidence whereas in this case application has been moved at the stage when just defendant was served.

6. He has further placed reliance upon "2016(1) Civil Court Cases (Delhi) M/s Kushal Infraprojects Industrides (India) Ltd. Versus Ram Karan and Ors." however, the facts differ as the matter was with regard to specific performance of agreement to sell wherein the observation was qua

changing the entire proceedings.

7. *Coming to the case in hand, before moving further it would be appropriate to look at the provision of Order 6 Rule 17 CPC which provides as under:-*

“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

8. *Hence, it clearly goes to show that lenient view is taken in case, case is at initial stage and this is the case where no written statement has been filed till date and application has been moved immediately after the service of defendant. Moreover, the error is only with regard to Khasra number which seems to be clerical error, hence, the application is considered and allowed. Application stands disposed of. It be registered and be tagged with main case file after needful. Amended plaint be taken on record. Copy supplied. Be listed, for appearance of parties for 07.11.25.”*

5. Learned Senior Counsel for the petitioner argued that the impugned order is not sustainable in the eyes of law as the learned Trial Court has erred in not appreciating that by permitting the plaintiff to incorporate the proposed

amendments, the entire cause stands altered. Learned Senior Counsel also argued that in terms of the provisions of Order VI, Rule 17 of the CPC, in the absence of any due diligence having been demonstrated, the amendment could not have been allowed. Learned Senior Counsel also submitted that the provisions of Order VI, Rule 17 of the CPC, can otherwise also not be allowed to be used to correct mistakes and this extremely important aspect of the matter was ignored by the learned Trial Court while allowing the application. Learned Senior Counsel further submitted that besides this, whereas, the area in terms of the earlier pleading was 00-16-00 bighas, now it stands changed to 02-19-00 bighas. He submitted that as this completely changes the complexion of the case, the amendment could not have been allowed. Learned Senior Counsel also argued that no document in support of proposed amendment was appended with the application. Accordingly, learned Senior Counsel submitted that as the impugned order is per se perverse, the petition be allowed and the impugned order be set aside.

6. On the other hand, learned counsel for the

respondent submitted that there is no infirmity in the order passed by the learned Trial Court. He took the Court through the application filed under Order VI, Rule 17 of the CPC and submitted that the only amendment which was prayed for in the application was qua the change in khasra number and obviously, the description of the land or the dimension of the land was to be dependent upon the khasra number concerned. Learned counsel further submitted that the mistake which was committed while filing the original plaint was prayed to be allowed to be corrected under Order VI, Rule 17 of the CPC for the reason that the Civil Suit was at its nascent stage and even written statement to the same had not yet been filed. Learned counsel further submitted that as this mistake was detected within days of the filing of the plaint, the application was filed to amend the same forthwith, which obviously has not caused any prejudice to the present petitioner. Learned counsel also argued that the plaintiff has not changed the nature of the suit etc. because the suit earlier also was for mandatory injunction and it even after the grant of amendment, remains the suit for mandatory injunction. Accordingly, he prayed that as there is no

infirmity in the order under challenge, the present petition being devoid of any merit, be dismissed.

7. I have heard learned Senior Counsel for the petitioner and learned counsel for the respondent and have also carefully gone through the documents appended with the petition as well as the impugned order.

8. It is a matter of record that the Civil Suit originally filed was relating to khasra no. 1013/346/176, which in terms of the order passed by the learned Trial Court has been allowed to be amended to khasra No. 1018/346/176. Besides this, no other amendment was allowed by the learned Trial Court and obviously, as a result of this amendment, the description of the land has been changed from 00-16-00 bighas to 02-19-00 bighas. Besides this amendment, not even a word has been allowed to be altered by the learned Trial Court in the entire plaint. Thus, the suit remains as it was and there is only a change in the description of the khasra number concerned. In the light of the fact that the application praying for amendment was filed immediately after the filing of the suit and the same was allowed by the learned Trial Court even before the written

statement of the defendants was on record, this Court is of the considered view that in these peculiar circumstances, the impugned order does not call for any interference.

9. In terms of Order VI, Rule 17 of the CPC, the Court may at any stage of the proceedings allow either of the parties to alter or amend pleadings, in such manner or on such terms, as may be just. The amendment which was allowed by the learned Trial Court has only permitted the plaintiff to amend his pleadings by altering the khasra number, which is permissible in terms of the provisions of Order VI, Rule 17 of the CPC. As far as the issue of due diligence is concerned, obviously because the suit has not yet reached the stage of the trial, because not even written statement had been filed when the application was filed and allowed, the question of due diligence was not to be deliberated by the learned Trial Court. One more thing which this Court would like to point out is this that the amendment allowed, being limited and restricted to the change in the number of khasra of the property only, cannot be said to have either altered the cause of action or changed the nature of the suit, because whatever the defendants have to say qua the

contents of the plaint, they can always do so through the written statement.

10. Accordingly, in light of the above observations, as this court finds no infirmity or perversity in the order under challenge, i.e., order dated 03.11.2025, passed by learned Senior Civil Judge, Nahan, District Sirmour, H.P., in CMA No. 728/6 of 2025, in Civil Suit No. 124/25, titled M/s Shourya Industries Vs. Nikhil & another, this petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

January 05, 2026
(Shivank Thakur)