



HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 18324/2025

CNR: RJHC010857972025 | URN: CW / 32883U / 2025

1. Inder Singh S/o Vijay Raj Singh, Aged About 57 Years, Resident Of Norwa, Tehsil Bhadrajun, District Jalore.
2. Lakshaman Singh S/o Bhagwat Singh, Aged About 39 Years, Resident Of Village Malgarh, Tehsil Ahore, District Jalore.
3. Arvind Kumar S/o Himmat Mal, Aged About 52 Years, Resident Of Kalupur Road, Tehsil Ahore, District Jalore.
4. Vikram Singh S/o Sumer Singh, Aged About 51 Years, Resident Of Karnot Krishi Farm, Tehsil Ahore, District Jalore.
5. Bhanwar Singh S/o Chhog Singh, Aged About 51 Years, Resident Of Brahmano Ki Gali, Kanwala, Tehsil Ahore, District Jalore.

----Petitioners

Versus

1. Dhananjay Gehlot S/o Shri Basant Kumar Gehlot, Resident Of House No. 112, Rajender Nagar, Jalore, Tehsil And District Jalore.
2. Bhagwan Das @ Bhagwana Ram S/o Mula Ram, Resident Of Bhadrajun, Tehsil Bhadrajun, District Jalore (Raj.).
3. Jabar Singh S/o Lal Singh, Resident Of Village Chand Rai, Tehsil Ahore, District Jalore.

----Respondents

Connected With

S.B. Civil Writ Petition No. 2898/2025

CNR: RJHC010116752025 | URN: CW / 4617U / 2025

1. Arvind Kumar S/o Himmat Mal, Aged About 50 Years, Kalupur Road, Tehsil Ahore, District Jalore.



2. Vikram Singh S/o Sumer Singh, Aged About 49 Years, Karnot Krishi Farm, Tehsil Ahore, District Jalore.
3. Bhanwar Singh S/o Chhog Singh, Aged About 49 Years, Brahmano Ki Gali, Kanwala, Tehsil Ahore, District Jalore.
4. Inder Singh S/o Vijay Raj Singh, Aged About 55 Years, Village Norwa, Tehsil Bhadrajun, District Jalore.

-----Petitioners

Versus

1. Dhananjay Gehlot S/o Basant Kumar Gehlot, House No.112, Rajender Nagar, Jalore, Tehsil And District Jalore.
2. Bhagwan Dass @ Bhagwana Ram S/o Mula Ram, Bhadrajun, Tehsil Bhadrajun, District Jalore (Raj).
3. Lakshman Singh S/o Bhagwat Singh, Village Malgarh, Tehsil Ahore, District Jalore.
4. Jabar Singh S/o Lal Singh, Village Chand Rai, Tehsil Ahore, District Jalore

-----Respondents

For Petitioner(s) : Mr. Moti Singh

For Respondent(s) : Dr. A.A. Bhansali

HON'BLE MR. JUSTICE FARJAND ALI

Order

DATE OF CONCLUSION OF ARGUMENTS : 24/07/2026
DATE ON WHICH ORDER IS RESERVED : 24/07/2026
FULL ORDER OR OPERATIVE PART : Full Order
DATE OF PRONOUNCEMENT : 03/10/2026

BY THE COURT:-



S.B. Civil Writ Petition No. 18324/2025

1. The instant writ petition under Article 226 and 227 of the Constitution of India has been preferred on behalf of the petitioners assailing the order dated 11.08.2025 passed by the learned District Judge, Jalore in Civil Original Suit No.17/2023 whereby the application for amendment in pleading and relief under Order 6 Rule 17 CPC was allowed and permitted for amendment in suit as well as the relief clause.

2. Briefly stated the facts of the case are that respondent No.1-plaintiff instituted a suit for specific performance of the agreement dated 13.05.2019 and permanent injunction in respect of agricultural land bearing Khasra No.1353 situated at Village Bhadrajun. It was averred that respondent No.2-Bhagwan Dass, pursuant to the judgment of the Board of Revenue, Ajmer dated 12.09.2018, became khatedar of the land and, during pendency of the writ petition preferred by the State of Rajasthan, entered into the aforesaid agreement to sell the entire land in favour of the plaintiff and other defendants. The writ petition was decided on 27.01.2023, whereafter a sale deed was executed on 23.02.2023 in favour of the plaintiff in respect of 0.1618 hectare of land, while the plaintiff claimed that the remaining area was not transferred and was subsequently sold in favour of defendant Nos.5 and 6. The plaintiff thereafter sought execution of the sale deed in respect of the remaining land and, during the pendency of the suit and after commencement of trial, moved an application under



Order VI Rule 17 CPC seeking amendment of the plaint and incorporation of a relief for cancellation of the sale deed dated 23.02.2023 executed in favour of defendant Nos.5 and 6. The learned Trial Court, vide order dated 11.08.2025, allowed the said amendment application, leading to the present petition.

3. Learned counsel for the petitioners submits that the learned Trial Court has erred in allowing the amendment application at a highly belated stage, despite commencement of trial and recording of evidence, in disregard of the proviso to Order VI Rule 17 CPC. It is contended that the proposed amendment introduces a prayer for cancellation of the sale deed, thereby altering the nature and subject matter of the suit, which was originally instituted for specific performance. It is further submitted that the sale deed was executed prior to institution of the suit and, therefore, the plea sought to be introduced cannot be treated as a mere clerical or typographical error, particularly in view of the requirement of due diligence. Learned counsel further submits that the amendment would cause serious prejudice to the petitioners and is contrary to the settled principles governing amendment of pleadings after commencement of trial.

4. Learned counsel for the respondents submits that the learned Trial Court has rightly exercised its discretion under Order VI Rule 17 CPC in allowing the amendment application. It is contended that the mere use of the expression "shall" in the proviso to Order VI Rule 17 CPC does not impose an absolute bar against allowing an amendment after commencement of trial.



Learned counsel further submits that an amendment to the pleadings can be permitted even at an appellate stage, provided the same is necessary for determining the real controversy between the parties.

5. Heard learned counsel for the parties and perused the material available on record.

6. Having considered the submissions advanced by learned counsel for the parties and upon perusal of the impugned order, this Court finds that the learned Trial Court has dealt with the application preferred by the plaintiff under Order VI Rule 17 CPC in the light of the principles governing amendment of pleadings. The learned Trial Court has also considered the judgments of the Hon'ble Supreme Court cited before it. This Court has also had an occasion to elaborately examine the scope and ambit of Order VI Rule 17 CPC in **Maharaj Dalip Singh vs A.D.J. No.5, Jodhpur And Ors.** [S.B. Civil Writ Petition No. 14622/2013], wherein the relevant principles governing exercise of jurisdiction under the said provision have been delineated. For the ready reference, the relevant paragraph of the judgment is reproduced herein below:-

"9. Having heard learned counsel for the parties, examined the pleadings placed on record, considered the nature and extent of the amendments sought by respondent No.2-plaintiff and carefully perused the impugned order dated 28.09.2013, this Court finds no jurisdictional infirmity, perversity or material irregularity warranting interference in exercise of the supervisory jurisdiction under Article 227 of the Constitution of India. The controversy essentially pertains to the exercise of discretion by the learned Trial Court under Order VI Rule 17 read with Section 151 CPC. It



is trite that the jurisdiction vested in a civil court under Order VI Rule 17 CPC is intended to facilitate the adjudication of the real controversy between the parties and not to penalise a litigant for an omission, error or imperfect formulation of his case at the initial stage. At the same time, such discretion is neither unbridled nor mechanical. The Court is required to examine whether the proposed amendment is germane to the controversy already brought before it, whether it alters the fundamental character of the proceedings, whether it introduces a wholly foreign cause of action, whether it seeks to defeat an accrued legal right of the opposite party, and whether the prejudice, if any, occasioned to the opposite side is such as cannot be adequately neutralised by granting an opportunity to meet the amended pleadings. The controlling consideration is therefore not whether the amendment introduces some additional factual averments or modifies the manner in which the plaintiff proposes to establish his entitlement, but whether the amendment takes the lis outside the framework of the dispute originally brought before the Court. The learned Trial Court, in the present case, has undertaken precisely such an exercise. It noticed the contents of the original plaint, the proposed amendments, the nature of the relief claimed, the stage at which the amendment was sought, the position of the pleadings of the defendants and the rival contentions concerning the pattas. It thereafter recorded a conscious conclusion that the ultimate relief of partition remained unaltered, the parties remained unchanged and the controversy continued to relate to the entitlement of the parties in the suit properties. Such an order, based upon relevant considerations and passed after hearing the contesting parties, cannot be characterised as an arbitrary or capricious exercise of jurisdiction merely because another view on the merits of the proposed pleading may also be possible.”





7. In the considered opinion of this Court, the impugned order does not suffer from any illegality, perversity or jurisdictional infirmity warranting interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The discretion exercised by the learned Trial Court under Order VI Rule 17 CPC cannot be said to be contrary to the settled principles governing amendment of pleadings.

8. Accordingly, finding no infirmity in the impugned order, the present writ petition is devoid of merit and is accordingly dismissed.

S.B. Civil Writ Petition No. 2898/2025

1. The instant writ petition under Article 226 of the Constitution of India has been preferred on behalf of the petitioners assailing the orders dated 01.08.2024 and 19.09.2024 passed by the learned District Judge, Jalore in Civil Original Suit No.17/2023, whereby the application preferred under Order XI Rule 12 of the Code of Civil Procedure, 1908, came to be allowed and the petitioners were directed to produce the original documents in question.

2. The brief facts of the case are that respondent No.1-plaintiff instituted a suit for specific performance of the agreement dated 13.05.2019, claiming execution of the sale deed in respect of the remaining portion of the land. The petitioners-defendants, in their written statement, disputed the claim and asserted that the plaintiff had paid only Rs.2,13,000/- and that the sale deeds in favour of the other defendants were executed in terms of the



agreement and with the plaintiff's consent. The learned Trial Court framed issues on 08.02.2024 and, thereafter, when the matter was fixed for evidence, the plaintiff moved an application under Order XI Rules 12 and 14 CPC seeking production of the original agreement dated 13.05.2019. The learned Trial Court closed the opportunity of the petitioners to file reply on 01.08.2024 and, thereafter, vide order dated 19.09.2024, allowed the application and directed production of the original document. Aggrieved thereof, the petitioners have preferred the present writ petition.

3. Learned counsel for the petitioners submits that the impugned order dated 19.09.2024 has been passed without affording an effective opportunity of hearing to the petitioners, who have been contesting the proceedings throughout and were not proceeded against ex parte. It is contended that the absence of learned counsel on the relevant date was occasioned by personal difficulty and, therefore, the order allowing the application under Order XI Rules 12 and 14 CPC suffers from violation of the principles of natural justice. It was further contended that the learned Trial Court failed to record the requisite satisfaction for directing discovery and production of the document and passed the order without assigning cogent reasons. It is also urged that there was no justification to presume that the original agreement dated 13.05.2019 was in the possession or power of the petitioners, particularly when they were themselves purchasers under the said agreement.



4. Learned counsel appearing for respondent No.1 submits that the impugned order has been passed after affording more than sufficient opportunity to the petitioners to file their reply and advance arguments on the application under Order XI Rule 12 read with Section 151 CPC. Despite repeated opportunities and adjournments, including an adjournment subject to costs, the petitioners failed to avail the opportunity and remained absent when the matter was taken up for hearing. Thus, no violation of the principles of natural justice or any illegality in the impugned order is made out and the writ petition deserves to be dismissed.

5. Heard learned counsel for the parties and perused the material available on record.

6. The controversy, in its narrow compass, is as to whether the learned Trial Court was justified in directing the petitioners-defendants to produce the agreement dated 13.05.2019, which is stated to be in their possession. The suit itself has been instituted for specific performance of the contract. The petitioners have not expressly denied that the aforesaid agreement is not in their possession. In such circumstances, the direction issued by the learned Trial Court requiring production of the said document cannot be said to be unjustified or contrary to law. The order, therefore, calls for no interference in exercise of the supervisory jurisdiction of this Court.

6.1 The contention of learned counsel for the petitioners that the impugned order came to be passed without affording an opportunity of hearing is equally untenable. The record reflects



that due service upon the petitioners had been effected and learned counsel appearing for defendant Nos.1 to 5 was present. Despite service and repeated calls, the petitioners failed to avail the opportunity afforded to them. Merely because a party, despite having been duly served and afforded an opportunity, chooses not to appear, it cannot be said that the learned Civil Court was precluded from proceeding with the matter and passing an appropriate order. An opportunity having been afforded but not availed of is a circumstance attributable to the party itself and cannot be permitted to invalidate the order otherwise passed in accordance with law.

7. In view of the aforesaid discussion, this Court finds no illegality, perversity or jurisdictional error in the impugned order warranting interference under Article 227 of the Constitution of India.

8. Accordingly, the instant writ petition is dismissed.

(FARJAND ALI),J

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