

**(2025) 12 SHI CK 0011**  
**Himachal Pradesh HC**  
**Case No:** Civil Revision No. 125 Of 2025

Krishan Chand

APPELLANT

Vs

Amar Chand (Deceased) Through  
Lrs. & Another

RESPONDENT

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**Date of Decision:** Dec. 4, 2025

**Acts Referred:**

- Code Of Civil Procedure, 1908- Section 151, Order 6 Rule 17

**Hon'ble Judges:** Satyen Vaidya, J

**Bench:** Single Bench

**Advocate:** Dr. Lalit K. Sharma, Ajay Chandel

**Final Decision:** Allowed

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**Judgement**

Satyen Vaidya, J

1. Heard.

2. The instant petition has been filed against the order dated 18.07.2025, passed by the learned Civil Judge, Court No.1, Sarkaghat, District Mandi, H.P. in Civil Suit No. 14 of 2021, whereby the application of the petitioner/ plaintiff for amendment of the plaint, has been dismissed.

3. The parties hereinafter shall be referred to by the same status, as they hold before the learned trial Court.

4. The plaintiff has filed a suit for permanent prohibitory and mandatory injunction against the defendants with respect to the land comprised in khewat No.32, khatauni No. 54, khasra No. 5510, measuring 00-01-48 hectares situated in Village Kothuwan, Tehsil Sandhole, District Mandi, H.P. He has claimed himself to be a co-owner in the said land. It is alleged that the defendants had no right, title or interest in the land comprised in khasra No. 5510, still they were trying to cause interference by raising construction on part of the said land. On this premise, the suit has been filed.

5. The defendants have filed their written statement and have asserted their possession on the suit land. In fact, a plea of adverse possession has been raised by the defendants.

6. The plaintiff filed an application under Order 6 Rule 17 read with Section 151 of the CPC for amendment of plaint by alleging that during the pendency of the suit, the defendants had raised construction on khasra No. 5510 and in addition, they have also encroached upon the adjoining land on khasra No. 5509, which also was co- owned by the plaintiff along with others. The plaintiff has placed reliance on the demarcation conducted by the revenue officer, in which, the encroachment on the suit land by the defendants is alleged to have been shown. With this background, the applicant sought to amend the plaint by adding paragraphs 1 (a) and 3 (a) to incorporate the pleadings with respect to khasra No. 5509, measuring 00-01-68 hectares, situated in Village Kothuwan, Tehsil Sandhole, District Mandi, H.P. In addition, it is sought to be pleaded that during the pendency of the suit, the defendants have forcibly raised construction over khasra Nos. 5510 and 5509.

7. The application was contested by the defendants by denying the allegations. It was alleged that the issue with respect to khasra No. 5509 already stood decided between the parties and the plaintiff had already filed two separate execution petitions, which have already been withdrawn. A Local Commissioner was appointed in one of the executing proceedings and the matter was compromised inter-se the parties. Consequently, the defendants had vacated the suit land by removing the Palli.

The plaintiff had thereafter raised a RCC wall on the boundary and separated the land. It was also submitted that by allowing the amendment, the nature of the suit will be changed and new khasra number will be introduced.

8. The learned trial Court dismissed the application on the ground that the introduction of a new khasra number could not be allowed as it would amount to introduction of a plea for which a separate cause of action has arisen.

9. The cause of action as pleaded by the plaintiff in original plaint is the alleged acts of the defendants in violating the boundaries of the land owned by the plaintiff. The suit land, as mentioned in the original plaint is comprised in khasra No. 5510. What is sought to be incorporated in the plaint by way of amendment is the fact that after filing of the suit, the defendants had alleged encroachment upon the land comprised in khasra No. 5510 and simultaneously, they had also made encroachment on contiguous land of the plaintiff, comprised in khasra No. 5509. Mere fact that the encroachment has been alleged on additional land will not necessarily amount that there is change in cause of action. The right as claimed by the plaintiff remains the same that he is owner in possession of the land and is entitled to protect from invasion by third party.

10. In my considered view, by allowing the amendment sought by the plaintiff, the nature of the suit is not going to change. Moreover, the suit is at initial stage. Issues have not been framed as yet. No prejudice will be caused to the defendants by allowing the application at this stage.

11. It is settled principle of law that the amendments which are necessary for adjudication of the matter completely and effectively inter-se the parties should be allowed unless there is any specific legal impediment. It is equally settled that multiplicity of litigation should be avoided between the parties.

12. Learned counsel for the defendants has contended that the amendment could not be allowed in view of the previous litigation qua khasra No. 5509 between the parties. The contention so raised deserves to be rejected for the simple reason that the merits of the claims made by the respective parties cannot be gone into at this stage of deciding the application for amendment of pleadings.

13. I find that the learned trial Court has erred in disallowing the prayer for amendment, as the impugned order is not in conformity with the settled principles for adjudication of the prayer for amendment of plaint.

14. In result, the petition is allowed. The impugned order dated 18.07.2025, passed by the learned Civil Judge, Court No.1, Sarkaghat, District Mandi, H.P. in Civil Suit No. 14 of 2021 is set aside. The amendment as prayed by the plaintiff is allowed by allowing the application under Order 6 Rule 17 CPC.

15. The petition is accordingly disposed of. Pending applications, if any, also stand disposed of.