

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE SHAHID BILAL HASSAN
MR. JUSTICE AAMER FAROOQ

CPLA No.746-L OF 2025

[Against judgment dated 11.03.2025 passed in W.P.No.30953 of 2024
by Lahore High Court, Lahore]

Muhammad Arif Tarar and another

...Petitioner(s)

Versus

Matloob Ahmad Warraich and others

...Respondent(s)

For the Petitioner(s) : Mr. Muhammad Saleem, ASC

For the Respondent(s) : N.R.

Date of Hearing : 05.06.2025

ORDER

SHAHID BILAL HASSAN-J: This petition for leave to appeal under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 has been preferred against the judgment dated 11.03.2025 passed by Lahore High Court, Lahore, in W.P. 30953 of 2024.

2. The relevant facts giving rise to this petition are that the Respondent, an overseas Pakistani residing in Canada, is the owner of a double-storey house bearing House No. 142-E-II, measuring 1 Kanal, situated in M.A. Johar Town, Lahore. The petitioner(s) instituted a suit for specific performance against the respondent(s) based on an alleged oral agreement to sell the suit property. The respondent(s) contested the suit by filing a written statement, denying the entering and execution of any such agreement. The trial court, out of divergent pleadings of the parties, framed issues and fixed the suit for recording the petitioners' evidence, which was repeatedly adjourned. On 15.06.2022, nearly ten years after the institution of the suit, the petitioner filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, seeking the following amendment to the plaint:

"...an amendment in the eleventh line of first paragraph of the plaint (5th line of Page 2) after the word 'same day', the following words will be added

'in the drawing room of the same house'

The respondent(s) contested the said application by filing a written reply and the learned trial court, after hearing arguments, dismissed the application vide order dated 29.11.2022. The petitioner(s) assailed the said order by filing a revision petition, which was allowed by the learned Additional District Judge, Lahore, on 20.03.2024, thereby permitting the purported amendment. The respondent(s) then filed a writ petition before the Lahore High Court challenging the order of the Additional District Judge concerned. Through its order dated 11.03.2025, the Lahore High Court accepted the writ petition, thereby setting aside the revision order and dismissing the petitioner's amendment application; hence, the instant petition.

3. Heard. For ease of reference, Order VI Rule 17 of the Code of Civil Procedure, 1908 is reproduced as hereunder;

"Order VI – Pleadings Generally

17. Amendment of pleadings.

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."

In determining the propriety of the impugned judgment, it is necessary to revisit the governing legal principles concerning amendment of pleadings. At the outset and from a plain reading of this provision, it is evident that the Court is empowered to allow a party to amend their pleadings, particularly where such an amendment is necessary to determine the real issue in controversy between the parties. This power, in the express terms of the provision and as affirmed in Ghulam Nabi vs. Sardar Nazir Ahmed (1985 SCMR 824), can be exercised, at any time, during the pendency of such proceedings and even after the passage of the decree at the appellate stage or at the stage of revision in the highest Court.

4. While it is true that the courts are empowered under Order VI Rule 17 of the Code of Civil Procedure, 1908 to permit amendment "*at any stage of the proceeding,*" this discretion is to be exercised with caution and only in furtherance of justice. This Court has held in

Abaid Ullah Malik vs. Additional District Judge, Mianwali and others (PLD 2013 SC 239) that although the rule *ibid* is to be construed liberally, certain guardrails must be strictly observed. An amendment cannot be allowed if it alters the nature of the suit, seeks to withdraw admissions previously made, is tainted with mala fide intent, causes prejudice to the opposite party, or is designed to overcome evidentiary contradictions or prior judicial determinations. Courts must be vigilant in evaluating the motive behind the request, the stage at which it is brought and its impact on the rights of the opposite party.

In the present case, the petitioner sought to amend a factual assertion—specifically, relating to the ‘alleged place’ where the oral agreement was made—after a delay of ten years. Such a request raises serious questions about the bona fides of the petitioner(s). This Court has held in Muhammad Akram and another vs. Altaf Ahmad (PLD 2003 SC 688) that where an amendment is sought after an inordinate delay, without adequate explanation, the delay itself, though not conclusive, becomes a weighty factor. An amendment of such a nature, introduced after the close of pleadings and during the trial phase, is likely to prejudice the opposing party by shifting the nature or focus of the controversy.

5. Additionally, as held in Sardar Muhammad Naseem Khan vs. Returning Officer, PP-12 and others (2015 SCMR 1698), pleadings frame the boundaries of a party’s case and the parties are bound to lead evidence in line with them. A party is not permitted to go beyond its pleadings and cannot lead or rely upon evidence that is inconsistent with what has been pleaded; even if such evidence is brought on record, it must be ignored. In this context, any belated amendment that introduces a new factual assertion must be examined with heightened scrutiny.

Similarly, in Mst. Noor Khatoon through Legal Heirs and another vs. Muhammad Shafi (2003 SCMR 542), the Court disallowed an amendment at a belated stage where the party had failed to raise the relevant plea earlier despite having full knowledge of the underlying facts. The petitioner(s) in that case sought to introduce a new line of argument by way of amendment which had not been raised before the appropriate forum at the proper time. The Court held that failure to act diligently bars a party from invoking the court’s jurisdiction under

Order VI Rule 17 of the Code of Civil Procedure, 1908 at a later stage, even where such power exists.

6. When the principle settled in the above said precedents are applied to the instant case, it can safely be held that the petitioners' amendment in this case was a direct attempt to support and fortify a disputed fact, central to the dispute over the existence of the alleged agreement—its location. The intention behind the amendment was not to clarify a 'typographical error', which this Court has permitted,¹ nor was it to rectify an 'accidental omission' as in Dausa and others vs. Province of the Punjab and others (2016 SCMR 1621), where the Supreme Court permitted a correction of the mortgage date as it was an undisputed formal clarification. In contrast, the amendment sought here goes to the root of the case which would prejudice the respondent(s)' stance. Hence, it would be impermissible for this Court to allow such an amendment.

7. To build upon the element of prejudice to the opposing party and why it cannot be overlooked, the courts have consistently warned, notably in Secretary to Government of West Pakistan v. Kazi Abdul Kafil (PLD 1978 SC 242), that an amendment should not be allowed where it alters the litigation landscape in a way that disadvantages the opposing party who relied upon the original pleading in the conduct of their case. In the case at hand, the proposed amendment had the effect of adding a key factual detail long after the other side had committed to a line of defence based on the original version of events.

8. The delay of ten years in seeking this amendment in absence of any compelling explanation is also relevant in the present case, as reaffirmed in Muhammad Akram v. Altaf Ahmad (PLD 2003 SC 688), an amendment sought at a late stage—especially after years of litigation, filing of successive pleadings, and recording of evidence—without any credible justification, creates a strong inference against the party's credibility. A sudden recollection of a material fact so central to the petitioner(s)' case, coming after a decade, raises serious doubts as to the authenticity of the assertion and undermines the fairness of allowing such a change. Similarly, in Mst. Ghulam Bibi and others vs. Sarsa Khan and others (PLD 1985 SC 345), the Court acknowledged that while delay alone is not conclusive, it becomes significant when the amendment is sought to be introduced after the trial has

¹ Qamar-ud-din vs. Muhammad Din and others – PLD 2001 SC 518

progressed substantially. The timing of the amendment request must, therefore, be viewed not in isolation, but in the context of its potential to disturb the procedural fairness and substantive rights of the opposing party. In the present case, the petitioner(s)' amendment was sought after a decade of pendency, and multiple adjournments, all the while failing to lead evidence. The attempt to insert a significant factual detail relating to the alleged oral agreement—namely the location of its execution—after such an extended lapse of time cannot be viewed as a benign clarification. Instead, it appears to be an effort to recalibrate the factual matrix of the petitioner(s)' case in light of the trial's trajectory. As held in *Mst. Ghulam Bibi ibid*, this type of amendment, coming at a late stage justifies close judicial scrutiny and may rightly be refused to preserve the integrity of the proceedings.

9. In view of the above, applying the reasoning of *Mst. Ghulam Bibi*, the amendment in question cannot be allowed, as it is not only significantly delayed but also appears to be tactically motivated and would result in prejudicing the opposing party. The petitioner(s)' conduct does not merit the equitable indulgence contemplated under Order VI Rule 17 CPC.

10. In light of the settled legal principles and the conduct of the petitioner(s), the Lahore High Court's decision to disallow the amendment is legally sound and does not warrant interference.

11. For the foregoing reasons, this petition has no merits which is accordingly dismissed and leave to appeal refused.

12. These are the detailed reasons for our short order dated 05.06.2025 which is reproduced here for the completion of the record:

"For the reasons to be recorded later, the instant petition stands dismissed. Leave refused."

JUDGE

Lahore, the
12th June, 2025
'APPROVED FOR REPORTING'
M.A. Hassan/Owais Nasir L.C.

JUDGE