

**Rajaram Narayan Vs. Rajaram**

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**Court :** Madhya Pradesh

**Decided On :** Mar-29-1995

**Reported in :** AIR1996MP12

**Judge :** T.S. Doabia, J.

**Acts :** [Code of Civil Procedure \(CPC\) , 1908](#) - Order 6, Rule 17

**Appeal No. :** C.R. No. 793 of 1994

**Appellant :** Rajaram Narayan

**Respondent :** Rajaram

**Advocate for Def. :** Arun Mishra, Adv.

**Advocate for Pet/Ap. :** K.L. Mangal, Adv.

**Judgement :**

ORDER

**T.S. Doabia, J.**

1. Initially the suit was filed for injunction. Later on an application seeking amendment was made under Order 6, Rule 17, C.P.C. It was pleaded by the plaintiffs that during the pendency of the litigation, some constructions have been raised. By way of amendment, mandatory injunction was sought. This prayer was

denied. Against this order, the present revision has been filed.

2. It may be seen that if something has happened during the pendency of the litigation that can certainly be permitted to be brought on record by way of amendment under Order 6, Rule 17, C.P.C. Such a course was approved by the High Court of Punjab in Puran Chand Sant Lal v. Nitya Nand, AIR 1958 Punj 460. Mr. Justice A. N. Grover (later, Judge of the Supreme Court) observed as under:--

'In a suit for a prohibitory injunction restraining the defendant for making constructions on a joint site, a decree for a mandatory injunction cannot be granted without amendment of the plaint. Such amendment can be allowed even at the stage of second appeal.'

3. In this view of the matter, the petitioners are allowed to amend the plaint. It would, however, be open to the defendants to urge that the plea sought to be enforced is barred by limitation.

4. Petition is disposed of.

Records be sent back.

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