

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

108

**Civil Revision No.1611 of 2015
Date of Decision:20.08.2015**

Urmila Sharma

....petitioner

Versus

Lakhwinder Singh

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2.To be referred to the Reporters or not? YES**
- 3.Whether the judgment should be reported in the Digest?**

Present: Mr.Viney Puri, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

Vide order being assailed dated 19.01.2015, rendered by Rent Controller, Jalandhar, prayer of the petitioner-landlord seeking amendment in the eviction petition has since been rejected.

Vide a proposed amendment, it is sought to be pleaded that during the pendency of the eviction petition, one shop bearing No.3 had fallen vacant, which also forms part of the building in which the shop in question is situated. However, because of the location of the said shop, since it abuts a staircase, no extension is feasible to conduct a tailoring business. Therefore, the same was let out to Mukal Sharma on 01.01.2014. Vide a proposed amendment, the petitioner intended to incorporate this subsequent development in the petition.

In response, the prayer was opposed. And it was maintained that the petitioner had already made an admission in this regard in his cross examination. And the proposed amendment was, nothing but a ploy to wriggle out of the said admission. Thus, the application was devoid of merit.

On a consideration of the matter in issue, the learned Rent Controller arrived at a conclusion that the petitioner-landlord had already been cross-examined in part. During the course of cross examination, he had conceded that one shop which was earlier rented out to Vishal had fallen vacant and was subsequently, let out to another tenant namely Mukal. Once that was so, all what was required to be seen was the effect of this aspect and development upon the case of the petitioner at an appropriate stage. Accordingly, it was concluded:

“After considering the rival contentions of both the Ld.counsel for the parties and perusal of judicial file, this court is of the considered view that the petitioner has been cross examined partly by the respondent. During the course of the cross examination, the petitioner has specifically admitted that one shop which was earlier rented out to one Vishal, fell vacant and it was subsequently let out in favour of another tenant namely Munish. It is also admitted that the petitioner had given the said shop on rent to Munish TV repair about four-five months. It is also admitted that petitioner did not start her work in that shop. Therefore,

this Court is of the view that the petitioner has already made admissions qua one of the shop which was the part of the same building. Now, it remains to be seen as to how far the impact of the said admissions on the complexion of the case of the petitioner. At this stage, the petitioner cannot be allowed to withdraw itself from the said admissions by way of amendment of petition itself. This Court also fortifies its view with the help of Hon'ble Apex Court judgments in the case of S.Malla Reddy vs. M/s Future Builders Co-op.Sty.(2013) 9 SCC, 349, Heera Lal vs. Kayalan Mal and others (AIR 1998 SC 618)B.K.Naranyana Pillai vs. Parameshwaran Pillai and another (2000(1) SCC 712)".

Concededly, petitioner admitted in his cross examination that another shop that also formed part of the same building, had fallen vacant and was re-let by the petitioner to Mukal Sharma. As rightly concluded by the Rent Controller, the effect and ramifications of this aspect and development would be analysed by the Rent Controller at an appropriate stage. But this could hardly be a ground to seek amendment in the eviction petition. Ex facie, the attempt is to re-align the whole claim. Further, the petitioner never sought any such amendment before this fact emerged in his cross-examination. The application lacked both i.e. merit as also the bona fides.

Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the Rent Controller was either

contrary to the position on record or erroneous in law. No interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. The petition being devoid of merit is accordingly dismissed.

20.08.2015

neenu

(ARUN PALLI)
JUDGE