

In the High Court of Punjab and Haryana at Chandigarh

CR No.2953 of 2015

Date of decision: 13.07.2015

Rajinder

.....Petitioner

Versus

Raj Kumar Sharma and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Lokesh Sinhal,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 17.4.2015 (Annexure P4) whereby application moved by the petitioner for permission to amend the written statement, was dismissed by the appellate authority.

Learned counsel for the petitioner has submitted that the petitioner had already pleaded in the written statement that the landlord owned other property in addition to the property in dispute. Now, by way of amendment, petitioner merely wants to elaborate the said plea.

Respondents had sought ejectment of the petition by filing the petition under Section 13 of the Haryana Urban Control of Rent and Eviction Act, 1973. The ground taken by the respondents

seeking ejectment of the petitioner was that they required the premises in question for their own personal use and occupation. Learned Rent Controller vide order dated 27.2.2013 allowed the ejectment petition. The said order has been challenged by the petitioner before the appellate authority. During the pendency of the appeal, petitioner moved an application for permission to amend the written statement.

Order 6 Rule 17 of the Code of Civil Procedure, 1908 reads as under:-

“17. Amendment of Pleadings.- the Court may at any stage at 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:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

Thus, as per the above provision, the Court has ample power to allow either party to alter or amend its pleadings before the commencement of the trial. However, once the trial has commenced, the Court can not allow the party to alter or amend its pleadings provided the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

By way of amendment petitioner wants to disclose qua the other property owned by the respondents in addition to the property in dispute. The fact now sought to be pleaded by the petitioner by way of amendment was already in his knowledge while contesting the rent petition. In these circumstances, learned appellate authority rightly held that the application moved by the petitioner was liable to be dismissed as petitioner had failed to show that despite due diligence, he could not take up the plea now sought to be taken by him by way of amendment.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 13,2015
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