

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5935 of 2015
Date of decision: 11.09.2015

Sunil Sharma

... Petitioner

Versus

Sudesh Rani

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Arjunvir Sharma, Advocate for
Mr. Naveen Sharma, Advocate for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? YES
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 01.08.2015, the Rent Controller, Ludhiana, has since declined the application moved by the petitioner-tenant seeking amendment in the written statement. The conclusion arrived at in this regard reads as thus:

“I have heard both the counsel for contesting parties and gone through the case file minutely. The applicant is alleging to add two paragraphs in his written statement (Preliminary objections). However the applicant has not stated that how these contents of the alleged addition and alteration which is being sought could not be pleaded earlier and how this has come to his knowledge at this stage. As per the provisions of Order 6 Rule 17 CPC no amendment can be allowed

except if the same could not be pleaded earlier despite of “due diligence”. Here no such diligence has been shown by the applicant that why these contents and averments could not be pleaded earlier, and moreover, the address of petitioner is the same when the petition was filed, which the counsel for applicant is stating to be hosiery hub. Moreover, the trial has already commenced and the case was fixed for respondent evidence when this present application has been moved, therefore no due diligence has been shown by the applicant that why the said contents were not pleaded earlier. Therefore, filling no justification in the application for amendment moved by the applicant, the application at hand is dismissed.”

Ex facie, what is sought to be pleaded by the petitioner by way of amendment is that the landlord has suppressed a material fact that she does not own or possess another property in Ludhiana, whereas she is the owner and in occupation of an adjacent shop bearing No.B-34-5655-1. Secondly, landlord and her husband are residing in an area, which is considered to be a hub of hosiery business. And thus, the said place is most suitable to start any such business. Apparently, the proposed amendment is indeed a piece of evidence. Onus to prove that the landlord requires the premises for her bona fide need is upon the respondent herself. In the written statement filed by the petitioner, he has already disputed the alleged need. Concededly, petitioner has

already cross-examined the respondent-landlord as regards the adjacent accommodation in her possession. As the petitioner is yet to lead his evidence, he shall always be at liberty to adduce any such evidence and prove that alleged requirement of the landlord was just a farce or lacked bonafides. Thus, the proposed amendment is wholly misconceived, as evidence is not required to be pleaded.

Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the Rent Controller is either contrary to the position on record or suffered from any material illegality.

No interference is warranted, in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is accordingly dismissed.

September 11, 2015
Rajan

(Arun Palli)
Judge