

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

112

Civil Revision No.6454 of 2015 (O&M)

Date of Decision: September 30, 2015

Arun Kumar Jain

...Petitioner

Versus

Chela Ram and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Vaibhav Jain, Advocate  
for the petitioner.

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

**CM No.20814-CII of 2015**

Prayer in this application is for exemption from filing the certified copies of Annexures P-1 to P-4 as well as true typed copies of impugned order dated 14.5.2015 as well as Annexures P-1 to P-4.

Application is allowed subject to just exceptions.

Exemption from filing the certified copies of Annexures P-1 to P-4 as well as true typed copies of impugned order dated 14.05.2015 as well as Annexures P-1 to P-4 is granted.

**CR No.6454 of 2015**

Challenge in this petition is to the order dated 14.05.2015 passed by the Civil Judge (Junior Division), Bhiwani, by which an application filed under Order VI Rule 17 CPC by the petitioner for amendment of the petition has been declined. The proposed amendment is said to be clarificatory in nature and, therefore, should have been permitted as per the assertion of the counsel for the petitioner. He has referred to para

7A which is being sought to be incorporated in the ejectment petition, which

reads as follows:-

*7A. That the ejectment petition for the adjoining shop on the western side has also been filed against Atam Parkash on the ground of bona fide need. The area of that shop is 75 Sq. feet and the area of the shop in dispute is also 75 Sq. feet. The area of one shop is not sufficient for the smooth running of the office of the Chartered Accountant. The petitioner wants to annex the shop in dispute with the western side of the shop by removing the intervening wall. Hence, the present petition has been filed for the bona fide need of the office.*

He, thus, contends that the impugned order cannot be sustained as it has been wrongly observed that it would change the nature of the *bona fide* requirement alleged in the original petition. His further contention is that the observations of the Court that the amendment which is being sought, is at a belated stage, also cannot be sustained as merely the evidence has been led by both the parties. He, thus, contends that the impugned order cannot sustain and deserves to be set aside.

This contention of learned counsel for the petitioner cannot be accepted as the Court below has rightly taken all the aspects which are required to be considered as per the provisions contained in Order VI Rule 17 of the Code of Civil Procedure while deciding the application for amendment of the petition. In para 5, it has been observed as follows:

*“In the present case, the petitioner has already adduced his entire evidence and his evidence was closed on 5.3.2012 by the learned counsel for the petitioner. Thereafter, the respondents have already adduced their substantial evidence. In this way, this court is in agreement with the argument advanced by the learned counsel for the respondents that the application presented by the petitioner*

*for amendment of the plaint is highly belated stage. It is provided in proviso to Rule 17 of Order 6 CPC 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 the trial. In the present case, this can not be accepted that the proposed amendment was not in knowledge of the petitioner. Therefore, the amendment application can not be allowed at this stage. It has been argued by the learned counsel for the petitioner that proposed amendment is clarificatory in nature, but this Court is not in consonance with the contention advanced by him. The amendment sought can not be regarded as clarificatory in nature, because by the proposed amendment, the petitioner wants to change the nature of his bonafide requirement as alleged in the original petition. At the time of filing of the petition also, the petitioner was having knowledge the shop in dispute is measuring 75 Sq. yards, but even after this, no such pleading has been made that whether this much of area would be sufficient enough for opening the officer of Chartered Accountant. Hence, the amendment sought by the petitioner at this belated stage can not be allowed.”*

I am in agreement with the aforesaid observations of the Court and uphold the same.

In view of the above, the present petition stands dismissed.

**September 30, 2015**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**