

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6895 of 2015
Date of decision: 15.10.2015

Sushil Kumar

... Petitioner

Versus

Neer Joshi

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sunil Agnihotri, 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 17.09.2015, rendered by Rent Controller, Mukerian, the application moved by the petitioner-tenant, seeking amendment in the written statement, had since been dismissed. The conclusion arrived in this regard reads as thus:

“5. Perusal of file reveals that, issues in the present case were framed way back on 23.1.2012. Thereafter, petitioner closed his evidence on 16.7.2014. Thereafter, applicant/respondent has already availed three effective opportunities to lead evidence and thereafter present application has been moved by the applicant/respondent. Thus, it is apparently clear that, present application has been moved by the applicant/respondent after two years of framing of issues and after conclusion of evidence of petition. In view of the circumstances,

aforementioned, it was incumbent upon the applicant/respondent to come up with a clear plea as to why he could not insert plead in his reply, which is sought to be inserted by way of present application and why these words were not mentioned in the written reply in place of words which are sought to be deleted by way of present application. However, no plausible explanation has been offered by the applicant/respondent in this regard. Therefore, it could be reasonably inferred that, application moved by the applicant/respondent is bereft of any merits. Moreover, the plea sought to be deleted by way of present application will certainly changed the defence of respondent. Since plea sought to be deleted is absolutely contradictory to the plea sought to be inserted by way of present application. Thus at the fag end of trial, applicant/respondent cannot be allowed to take petitioner by surprise by setting up an altogether new case. Therefore, application moved by the applicant/respondent is hereby dismissed. For evidence of respondent, the case stands adjourned to 07.10.2015.”

All what is sought to be pleaded by the petitioner vide the proposed amendment is that the respondent-landlord has filed the eviction petition with an intent to sell the property after getting it vacated and, thereafter, he wishes to settle abroad. Concededly, in the written statement filed by the petitioner, he had denied and disputed the alleged need of the landlord to occupy the premises for his personal bona fide necessity. And, the respondent-landlord has already been

cross-examined by the petitioner as regards his personal bona fide need. Petitioner is yet to lead and conclude his evidence. Needless to assert, he would be at liberty to adduce appropriate evidence to vitiate the alleged need. That being so, the amendment prayed for is wholly misconceived and was rightly declined. Even otherwise, the issues were framed as back as on 23.01.2012. Thereafter, respondent-landlord had closed his evidence on 16.07.2014. Despite having availed three effective opportunities, petitioner failed to lead any evidence. It was at this stage, an application was moved by the petitioner, seeking amendment, with a sole purpose to delay and derail the proceedings.

That being so, 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.

October 15, 2015
Rajan

(Arun Palli)
Judge