

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

1. CR No.7454 of 2015
Date of decision: 06.11.2015

Meena Kumari ... Petitioner

Versus
DAV College Managing Committee ... Respondent
2. CR No.7462 of 2015

Charanjit Pasricha ... Petitioner

Versus
DAV College Managing Committee ... Respondents
3. CR No.7472 of 2015

Palvinder Pal Singh ... Petitioner

Versus
DAV College Managing Committee ... Respondents
4. CR No.7473 of 2015

Rama Pujani ... Petitioner

Versus
DAV College Managing Committee ... Respondents
5. CR No.7479 of 2015

Charanjit Pasricha ... Petitioner

Versus
DAV College Managing Committee ... Respondents

6. CR No.7486 of 2015
- Sunil Kapoor ... Petitioner
- Versus
- DAV College Managing Committee ... Respondents
7. CR No.7527 of 2015
- Hardeep Singh ... Petitioner
- Versus
- DAV College Managing Committee ... Respondent
8. CR No.7552 of 2015
- Ravinder Singh ... Petitioner
- Versus
- DAV College Managing Committee ... Respondent
9. CR No.7559 of 2015
- Subhash Chander ... Petitioner
- Versus
- DAV College Managing Committee ... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Saurabh Bajaj, Advocate for the petitioner(s).

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)

This order shall dispose of above-stated nine civil revisions. The facts involved in all being similar and the issue arising for consideration being common, the facts are being culled out from Civil Revision No.7454 of 2015.

Vide order dated 14.09.2015, rendered by the Rent Controller, Karnal, the application moved by the landlord-respondent, seeking amendment in the eviction petition, had since been allowed. And that is how, tenant-petitioner is before this court.

Respondent i.e. Km. Vidyavati Anand D.A.V. College for Women, Karnal, is an Educational Trust registered with the Registrar of Societies. The case that was originally set out by the landlord in the eviction petition was that the demised premises as also the adjacent shops were urgently required by the Institution for extension/construction of classrooms, laboratories, library and for other allied purposes. And the extension plan in this regard, though ready, but could not be executed unless all the shops (including the demised premises) were got vacated.

In defence, it was pleaded, inter alia, that the respondent already had sufficient space inside the college building to raise construction. Further, the demised premises and the adjacent shops were constructed by the respondent Institution in the front portion of the plot adjoining the railway road. And, even if, these shops were demolished for constructing classrooms, laboratories etc., the same would not be feasible in the wake of the Municipal Bye Laws, for the Institution shall have to leave an area measuring 13 meters from the front portion. Therefore, the purpose for which the

eviction of the tenant-petitioner was being sought would still not be achieved.

And, that being so, landlord-respondent moved an application seeking amendment in the eviction petition to plead; ***“Moreover, since students have been parking their vehicles (mostly two wheelers/scooters etc.) on the berm of the Railway Road, resulting in traffic congestions and the risk of theft of vehicles, the Municipal authorities is time and again been asking the management, more particularly the Principal of the institution to make appropriate arrangement for the parking of the vehicles inside the college premises. Considering all the pros and cons, a new layout plan has been got prepared by the petitioner confirming to the provisions contained in the Municipal Bye Laws, for providing parking space inside the college premises and for construction of new classrooms, laboratories etc. Even for the implementation of the new layout plan, there is no other alternative but to get all the shops in possession of the tenants, including the shop in question vacated.”***

Ex facie, the case that was originally set out in the eviction petition was that the demised premises and the shops adjoining thereto were part of the College building and abut on Railway Road, Karnal. Respondent urgently required an additional space for extension/construction of classrooms etc.,

for which a detailed layout plan had already been got prepared. But having found that Municipal Corporation, Karnal, may not approve/sanction the said site plan, for no construction shall be permitted alongside the Railway Road, a revised layout plan was prepared by the respondent. And all what is sought to be pleaded, vide a proposed amendment, is only the revision in the layout plan. Or certain additions and alterations in the proposed project so as to bring it in sync with the Municipal Bye Laws. But by that, the alleged need of the respondent Institution for extension/construction of classrooms, laboratories, library and other allied purposes has not ceased to exist. It indeed remains, which of course is subject to proof and final determination by the Rent Controller. Thus, only the site plan to meet and suit its requirement has been revised, in terms of geographical relocation/readjustment of the proposed construction and parking space. And, as pleaded, even for the execution of the new layout plan, respondent purportedly requires the demised premises as also the adjoining shops. Thus, there is no change in the cause of action and the proposed amendment does not alter the nature of the eviction petition.

The argument being advanced by the learned counsel that vide proposed amendment a lacuna is sought to be filled, which is impermissible, is misplaced. For, an amendment was prayed for to avert a technical disaster at a

later stage. Otherwise, for sure, petitioner/tenant would have raised an argument that as no construction is feasible at the spot where the demised premises and adjoining shops are in existence so prayer for ejectment of the tenants was misconceived. Resultantly, respondent has only revised its plan and vide proposed amendment has sought to plead as how it intends to execute it. On merits, respondent would still have to make good its claim and petitioner would be free to prove that alleged need is not bona fide or conceived in good faith. Proposed amendment has indeed not caused any prejudice to the petitioner, for respondent had every right to plead its case fully and completely. Even otherwise, eviction petition preferred by the respondent is still at an initial stage, as evidence is yet to commence. An analysis of the order under challenge reveals that learned Rent Controller has rightly exercised its judicial discretion to grant the amendment prayed for.

That being so, no interference is warranted in exercise of revisional jurisdiction. Petitions being devoid of merit are accordingly dismissed.

November 6, 2015
Rajan

(Arun Palli)
Judge