

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.753 of 2015
Date of decision: 02.02.2015

Rajinder Kumar

....Petitioner

Versus

Gurjit Singh Sandhu deceased through his L.Rs. Harminder Kuar and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Hardeep Singh, Advocate for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition is to the order dated 9.1.2015 (Annexure P/1) whereby application for amendment of written statement has been dismissed by the Rent Controller, Patiala.

The amendment which was sought by the tenant that the property in question was evacuee property and the petitioner had taken no permission from the Rent Controller to convert the premises into a non residential building. The reasoning given for dismissing the amendment was that the written statement was filed on 22.2.2013 and the landlord had already concluded his evidence and the case was now fixed for evidence of the respondent. Accordingly, once the trial had commenced in view of the principles laid down pertaining to Order 6 Rule 17 CPC, the application has been dismissed.

Admittedly, the shop in question was taken on rent by the father of the petitioner Manohar Lal for the purpose of running his business. The fact is admitted by the tenant in the written statement itself. The property was allotted to the deceased landlord way back on 1.10.1955 and the petitioner's father had taken the premises at that point of time which is now sought to be alleged not to be a residential building. The petitioner was thus well aware at the time of filing his defence by way of written statement as to the nature of property. Once the

trial has commenced, the Rent Controller, Patiala was justified in declining to allow the amendment as it will totally change the nature of the dispute.

It is settled principle that the Court should be liberal while allowing the amendment at an initial stage but once the trial has commenced, due diligence had to be pleaded. The reasoning given in the application for amendment is that when counsel was preparing the case it came to his notice regarding the status of the property. The Rent Controller, Patiala thus has rightly placed reliance upon the judgment of this Court in **Sunil and others Vs. Jai Parkash and another 2013(2) Civil Court Cases 105 (P&H)** to hold that if such an explanation regarding fault of counsel is accepted then the provisions of Order 6 Rule 17 CPC would be rendered nugatory.

Keeping in view the above facts, the order dated 9.1.2015 passed by the Rent Controller, Patiala does not suffer from any infirmity which would warrant interference by this Court.

Accordingly, the present revision petition is dismissed.

02.02.2015
Pka

(G.S.SANDHAWALIA)
JUDGE