

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

C.R.No.5823 of 2016

Date of Decision:07.09.2016

M/s Dinesh Enterprises and another ... Petitioners

Vs.

Gurudwara Sri Guru Singh Sabha Abrol Nagar Pathankot

... Respondent

CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present : Mr. Vishal Munjal, Advocate for the petitioners.

AUGUSTINE GEORGE MASIH J. (Oral)

Challenge in this petition is to the order dated 27.7.2016 passed by the Rent Controller, Pathankot, whereby the application for amendment of the written statement by deleting para No.4(ii) and substituting the same with the lines as has been mentioned there in the application, has been dismissed.

It is the contention of the learned counsel for the petitioner that the amendment which was being sought to be made in the written statement was with regard to the fact that a shop adjacent to the shop which is in possession of the petitioner, the eviction of which has been sought, is lying vacant which can be used for keeping shoes of the people who come to the Gurudwara to pay their obeisance. He contends that if an alternative place is available for the purpose for which the shop of the petitioner is being evicted, the requirement of personal necessity as has been projected would not be there and therefore the amendment as prayed for should have been allowed by the Court below.

I have heard learned counsel for the petitioner and with his

assistance have gone through the impugned order.

There is no doubt that the amendment to the pleadings can be allowed at any time during the proceedings to do justice but the guiding factor is that whenever the amendment is allowed, the Court is satisfied and comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of the trial. Present is the case where it has not been specifically pleaded that the adjacent shop was or is lying vacant which can be used for the purpose of keeping the shoes of the devotees who visit the Gurudwara for the purpose of worship. The fact being known from the very inception to the petitioner should have been incorporated in the written statement but at this belated stage when the evidence of the respondent-landlord stands concluded and that of the petitioner is in progress, the application could not have been allowed and has rightly been rejected. The conclusion of the Rent Controller that the present application has been filed with an intention to delay the proceedings also cannot be said to be without any justification.

In view of the above, the present revision petition being devoid of merit stands dismissed.

07.09.2016
rajeev

(Augustine George Masih)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No