

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

238

CR-6416 of 2015

DATE OF DECISION: 26.02.2016.

Shafia Begum

....Petitioner.

VERSUS

Khem Singh Rehal

....Respondent.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Anil Kumar Garg, Advocate for the petitioner.

Shekher Dhawan, J. (Oral)

Learned counsel for the petitioner while assailing the order dated 17.09.2015 urged that in the written statement, present petitioner denied the fact that the shops on the ground floor as well as on first floor were not vacant on the said date. By way of proposed amendment petitioner wants to explain the fact that by the date of filing the written statement, tenant of first floor had already vacated first floor and tenant on ground floor had also undertaken to vacate the premises on demand and the proposed amendment is just explanatory to the plea already taken in the written statement and no additional plea was being taken. The case is still at the evidence stage and fixed for evidence of petitioner/defendant.

Despite notice, respondent failed to contest the present petition.

In view of the grounds already taken in the written statement and the proposed amendments which are more or less explanatory in nature but the same goes to the roots of the case and most material for the just decision of the case. The same should have been allowed by the Court below. However, the Court below dismissed the application on the ground

that the case was fixed for defendant's evidence after conclusion of plaintiff's evidence after availing so many opportunities. That facts become more or less irrelevant because of the fact that evidence of defendant is yet to be concluded and for that purpose the order dated 17.09.2015 is legally not maintainable.

In view of the above, present petition is accepted and order dated 17.09.2015 is hereby set aside.

(SHEKHER DHAWAN)
JUDGE

26.02.2016.

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