

CR No. 7026 of 2016

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

CR No. 7026 of 2016**Date of Decision: November 04, 2016****Dineshwar Singh**

...Petitioner

Versus

Ravinder Mohan & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amit Jaiswal, Advocate
for the petitioner.

Mr. Sanjay Jain, Advocate
for respondent No.1.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner has approached this Court assailing the order dated 12.10.2016 passed by the Rent Controller, Ambala, whereby, his application for amendment of the written statement under Order 6 Rule 17 of the Code of Civil Procedure (hereinafter referred to as 'CPC') read with Section 151 of CPC, has been dismissed.

Counsel for the petitioner asserts that the application for amendment has been immediately moved as per the change in circumstances with the development taking place in January, 2016, whereby, adjacent shop of the demised shop i.e. M/s Hemkunt Enterprises has been vacated by the legal representatives of tenant on the demise of the Proprietor of the said enterprises. The application for amendment of the written statement has been filed on 04.02.2016 and therefore, it cannot be said that the application was not *bona fide* or there was a deliberate attempt on the part of the petitioner in delaying the proceedings in any manner. He, thus, contends

that the impugned order cannot sustain and deserves to be set aside.

Counsel for respondent No.1, on the other hand, asserts that the only intention of the petitioner is to delay the proceedings therefore, the application has not been moved with a *bona fide* intention. The purpose appears to be to delay the proceedings before the Rent Controller and to hold on to the demised premises as a tenant as long as he can. He, however, does not dispute that the legal representatives of Proprietor of M/s Hemkunt Enterprises, on his death, have vacated the shop in the month of January, 2016, as has been pleaded in the application. Reference in this regard can also be made to para 3 of the reply to the application preferred by the petitioner where there is categoric admission in this regard by the respondent-landlord.

On considering the submissions made by the counsel for the parties and on going through the records of the case as also the impugned order, this court is of the considered view that the order dated 12.10.2016 passed by the Rent Controller, Ambala, deserves to be set aside as there is no dispute with regard to the fact that the tenancy of M/s Hemkunt Enterprises came to an end with the handing over of the vacant possession of the adjacent shop of the demised shop by the legal representatives of the Proprietor of M/s Hemkunt Enterprises. The vacant possession has been handed over in the month of January, 2016 and the present application has been moved on 04.02.2016. The application, therefore, cannot be said to be without any *bona fide*.

Counsel for respondent No.1 vehemently contended that the application has been preferred by the petitioner and has approached this

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Court by asserting that the respondents-landlords have concealed this fact but there is no question of such concealment as the factum of the eviction of the shop only came into existence in January, 2016.

As regards the contention of the counsel for respondent No.1 that the intention for moving this application is only to delay the proceedings to which the counsel for the petitioner has very fairly stated that he would need only two effective opportunities to conclude his evidence and not more than that. If that be so, the apprehension as projected on behalf of the respondents-landlords is taken care of.

In view of the above, amendment to the written statement as preferred under Order 6 Rule 17 of CPC read with Section 151 of CPC is hereby allowed. The amended written statement, if not filed, be filed on or before 07.11.2016. After 07.11.2016, which is the date fixed by the Rent Controller, for evidence of the petitioner, two effective opportunities shall be granted to the petitioner to lead and conclude evidence and no further, as per the statement given by the counsel for the petitioner. The Rent Controller shall thereafter proceed to conclude the proceedings as early as possible.

The present revision petition stands allowed with the observations made above.

Copy of the order be given *dasti* to the counsel for the petitioner under signatures of the Bench Secretary of this Court.

(AUGUSTINE GEORGE MASIH)
JUDGE

November 04, 2016

Harish

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No