

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CR No.1003 of 2017

Date of decision: 13.02.2017

Hari Chand (now deceased) th. LR Om ParkashPetitioner

Versus

Bimla Devi & others ...Respondents

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

Present: Mr.Gurinder Pal Singh, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

The present revision petition has been preferred by the petitioner-tenant against the order passed by the Rent Controller, Rewari on 09.01.2017 (Annexure P3), whereby the application for amendment has been allowed to the extent that the property was now required by the sons of the applicant/landlord for their *bona fide* requirement.

Initially, the petition was filed by the landlady on the ground that the property was required for her husband, namely, Kalyan Singh, which is one of the grounds of ejectment. On account of death of Kalyan Singh, during the pendency of the proceedings, an application for amendment under Order 6 Rule 17 CPC was filed that the requirement, now, was for the 2 sons, namely, Vipin and Parveen, as they wanted to start their own business.

The same was opposed by filing reply that the application was not maintainable as number of opportunities had been taken and that the said persons were already carrying on their business and having number of shops.

The Rent Controller placed reliance upon the judgment of this Court in **Mrs. Surinder Kaur Bakshi Vs. M/s Chopra Glass House & others 2013 (4) RCR (Civil) 160** for allowing the application wherein it was held that it would scuttle the needless multiplicity of proceedings and that if

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1003 of 2017

-2-

the legal representatives have to file a fresh petition again, the tenant will have to defend the same.

Counsel for the petitioner has vehemently submitted that at the time of filing the petition, cause of action was not available, as such, and therefore, the order passed by the Rent Controller, was not justified.

The said submission is not liable to be accepted. The basic principle is that the Courts have to decide the lis between the two parties and there should be a *bona fide* ground for the amendment and the party should not be allowed to withdraw the earlier admission made. The application should not have any *mala fide* content, to take any advantage. In the present case, as noticed, the husband of the landlady had died, for whom, one of the grounds was that the premises were required for his use. Once the petition can be filed for the same cause of action by the sons and in case sufficient material has come on record for the other grounds of eviction, it would be needless and unnecessary for the Court to call the parties for evidence, afresh and it would only waste the precious time of the Court, as such.

In such circumstances, the impugned order dated 09.01.2017 (Annexure P3) is not amenable to any challenge. Accordingly, the present revision petition is dismissed in limine.

February 13th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No