

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1623 of 2017
Date of Decision: 13.09.2017

Paramjit Singh and another

...Petitioners

Vs.

Sat Pal and another

...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioners.

Mr. Kashish Garg, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J. (Oral)

No one appears on behalf of the petitioners. This revision has been filed against an interlocutory order declining amendment sought by the tenant. The stage of the eviction proceedings at the time of filing of the petition was that witnesses AW-2 to AW-4 had been cross-examined and AW-5 partly. The cross-examination of AW-1 had not started. The application under Order 6 Rule 17 CPC was filed by the tenant on October 07, 2015, after a period of more than a year of filing written statement. The trial is in the midway. The landlord has applied for eviction of the tenant on the ground of personal use and occupation of the tenanted premises. The ground taken in the application for amendment is that there have been subsequent changes in circumstances. The amendments sought to be introduced via the application read as follows:-

“6. That the applicants are estopped from filing the present eviction application due to their acts, conducts, admissions, omissions and acquiescence.

7. That the applicants have forged, fabricated, manipulated, false, baseless, ingenuine accounts

books, partnership deeds and other documents and as such the same are liable to the ignored, not looked into and appropriate criminal proceedings for the same are liable to be initiated against them.

8. *That the applicants have not come with clean hands and have concealed true and material facts from this Hon'ble Courts; hence they are not entitled to any relief in this case.*

9. *That the applicants alongwith other sons of Sh. Sat Pal s/o Sh. Walaiti Ram, constitute Hindu Joint Family and all the sons of Sat Pal are coparceners and members of said HUF and no partition by metes and bounds has ever been effected among them. The partnership deed/s of firm M/s Walaiti Ram Sat Pal is merely a camouflage and the same have been prepared for misleading income tax authorities, sale tax authorities and also to misuse the same for the purpose of filing present false, frivolous, vexatious, malafide eviction application.*

10. *That the applications were having one more shop in Dhobi Bazar, just opposite to the present shop of M/s Walaiti Ram Sat Pal, Bathinda and the same was on rent with them since long, but they have vacated the same after getting huge Pagdi amount. The applicants own and possess number of other buildings also, within Municipal Limits Bathinda, but same have not been disclosed in this eviction application by them for the reasons best known to them, apparently to mislead and misrepresent this Hon'ble Court, for getting wrongful benefit and to cause wrongful loss to the respondents. Hence on*

this ground also the present application deserves to be dismissed with special costs.”

It is urged in the application that these are legal objections which go to the root of the case and are just necessary for the proper adjudication on all the points involved in controversy between the parties.

The learned Rent Controller has examined the proposed amendment in detail in the impugned order dated January 04, 2017 and has held that the application for amendment shall normally not be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencements of trial.

The law on the subject is stated in Salem Advocates Bar Association vs. Union of India, AIR 2003 SC 189. Though called legal objections, the quoted part (supra) are assertions which are factual in nature. No material particulars and precise dates have been mentioned in the proposed amendments in para 6 to 10 and especially with regard to the last paragraph for any Court or Authority to conclude that these are matters prior to filing of the eviction petition and unknown to the tenant.

I have heard the learned counsel for the respondents since the petitioners' counsel has not come forward despite the fact that on July 31, 2017 he had not appeared and this Court had directed the case to be listed for arguments on August 10, 2017 to be shown in the urgent list. It was also ordered that the photocopy of the order to be placed on the file of the connected matter.

I have been informed by Mr. Kashish Garg, Advocate that connected case CR No. 1799 of 2017 has been dismissed on August 10,

2017 and that the subject matter of that revision was for de-exhibiting certain documents in a case between the same parties.

I have no reason to differ with the order of the learned Rent Controller in declining the application for amendment and would dismiss the petition.

Trial to proceed.

(RAJIV NARAIN RAINA)
JUDGE

13.09.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>