

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

**1. Civil Revision No.2191 of 2016(O&M)
Date of decision: 26.5.2017**

M/s Ashwani Trading Corporation and another **...Petitioners**

Versus

M/s Bansal Engg. Works and another **...Respondents**

2. Civil Revision No.2507 of 2016(O&M)

Naresh Kumar **...Petitioner**

Versus

M/s Bansal Engg. Works and another **...Respondents**

3. Civil Revision No.2508 of 2016(O&M)

M/s Janta Supply Agency and another **...Petitioners**

Versus

M/s Bansal Engg. Works and others **...Respondents**

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

Present: Mr. G.S.Sirphikhi, Advocate for the petitioners
(in all the petitions).

Mr. K.S.Rikhi, Advocate for the respondents.

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Revision Nos.2191, 2507 and 2508 of 2016 as common questions of fact and law are involved in all these petitions. However, for dictating the order, facts have been taken from CR No.2191 of 2016.

The petitioners-tenants challenge the order dated 24.2.2016 passed by the Rent Controller, Batala whereby amendment has been allowed

in the eviction petition filed by the respondent-landlord.

The addition in the ejectment application is to the extent that initially bonafide requirement was for the start of business of the son after studying upto graduation who was stated to be unemployed.

After the trial had started and the landlord had examined his witnesses, he filed an application under Order 6 Rule 17 CPC wanting to incorporate the fact that apart from the need of the son, requirement was also for the other family members on the ground that the proposed amendment was very essential and necessary for the proper and effectual adjudication of the case and error was inadvertent and a typographical mistake.

The application was contested on the ground that the trial has begun and it was almost at the stage of conclusion and a new case was set up and entire cause of action as such would be changed since admittedly a period of six years have passed since then. The Rent Controller, Batala has allowed the application on the ground that it seems to be a typographical mistake in nature and the nature of the application would not change.

The Rent Controller, Batala was well justified in holding that rules of Courts are nothing but provisions intended to secure the proper administration of justice and full powers of amendment must be enjoyed and should always be liberally exercised. It is settled principle that rules of procedures are handmaid of justice and the Court has to decide the controversy on merits. Even otherwise, after lapse of six years, need for family members having occurred which had been incorporated by way of amendment subsequently and the cause of action would not change, therefore, the reasoning which had prevailed with the Rent Controller while

allowing application cannot be held to be faulted. The petitioners can always be compensated with costs which was not done.

The principle laid down in **Mrs. Surinder Kaur Bakshi Vs. M/s Chopra Glass House and others** 2013(3) PLR 142 has to be kept in mind wherein the factor of subsequent events has also to be kept in mind. Similarly in **Chander Kanta Bansal Vs. Rajinder Singh Anand** 2008(4) SCR 748, the same principle was laid down by the Apex Court that multiplicity of proceedings shall be avoided and the power of amendment should be liberally exercised. The relevant para reads as under:-

“This rule was omitted by the Code of **Civil Procedure (Amendment) Act**, 1999. However, before the enforcement of the **Code of Civil Procedure (Amendment) Act**, 1999, the original rule was substituted and restored with an additional proviso. The proviso limits the power to allow amendment after the commencement of trial but grants discretion to the court to allow amendment if it feels that the party could not have raised the matter before the commencement of trial in spite of due diligence. It is true that the power to allow amendment should be liberally exercised. The liberal principles which guide the exercise of discretion in allowing the amendment are that multiplicity of proceedings should be avoided, that amendments which do not totally alter the character of an action should be granted, while care should be taken to see that injustice and prejudice of an irremediable character are not inflicted upon the opposite party under pretence of amendment.”

Resultantly, the present petitions are allowed to the extent that costs will flow to the extent of ₹ 2500/- in each case to be paid by the landlord. However, orders passed by the Rent Controller, Batala in all the three petitions are upheld.

Counsel for the petitioners argued that by virtue of amendment

at that stage, he be given a chance to rebut the claim as such.

Needless to say that once the amended petitions had come on record, the tenants are to be given necessary opportunity in accordance with law by way of filing written statement etc.

May 26, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No