

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

**CR No.2315 of 2015.**

**Date of Decision: 17.05.2017.**

Shiv Charan Singh

....Petitioner.

**VERSUS**

Kuldeep Singh

....Respondent.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Mr. S.K. Singla, Advocate for the petitioner.

Mr. Bir Davinder Singh, Advocate for the respondent.

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**SNEH PRASHAR, J.**

The instant revision petition under Article 227 of the Constitution of India has been filed impugning the order dated 20.01.2015 passed by learned Civil Judge (Junior Division), Moga dismissing the application filed by the plaintiff-petitioner under Order VI Rule 16 and 17 read with Section 151 of the Code of Civil Procedure (for short, 'the Code') for amendment in the plaint.

The submissions made by Mr. S.K. Singla, learned counsel representing the petitioner and Mr. Bir Davinder Singh, learned counsel representing the respondent have been heard.

Learned counsel for the petitioner argued that the instant suit for recovery of Rs.51,800/- being arrears of rent for 37 months alongwith interest had been filed by the petitioner-plaintiff. During pendency of the present suit, an ejectment order had been passed by learned Rent Controller

against the respondent-defendant on 09.05.2008 and the appeal preferred by the respondent had also been dismissed on 04.02.2010. The respondent did not vacate the shop as per order of the Rent Controller and handed over possession of the same on 27.12.2010. In order to avoid multiplicity of suits, the petitioner moved an application before learned trial court for amendment in the plaint so as to claim the subsequent arrears of rent. Amendment is required to be made only in the head note of the plaint where in place of amount of "Rs.51,800/-", "Rs.1,36,200/-" is to be recorded. In that manner, the proposed amendment is to make the suit for recovery of Rs.1,36,200/- as arrears of rent alongwith interest at the rate of 12% per annum from the due date till realization. Consequential amendment in Para No.10 and a new paragraph No.11 is also to be added. Learned counsel urged that the proposed amendment is necessary for proper and complete adjudication of the matter in dispute between the parties and learned trial court has erred in dismissing the application filed by the petitioner.

On the other hand, learned counsel for the respondent refuted the arguments of learned counsel for the petitioner. He submitted that another suit for recovery of Rs.51,800/- alongwith interest on account of arrears of rent for the period included in the period for which the petitioner by way of proposed amendment intends to claim arrears of rent, filed by the petitioner was dismissed by learned Additional Civil Judge (Senior Division), Moga and the appeal preferred by the petitioner-plaintiff was also dismissed. By filing application for amendment, he wants to bypass the said judgments.

The instant suit for recovery of Rs.51,800/- on account of arrears of rent for 37 months was filed by the petitioner on 23.11.2010. The

respondent-defendant is contesting the suit. On the rival contentions of the parties, issues were framed and the trial commenced. It is mentioned by learned trial court in the impugned order that the petitioner-plaintiff had already closed his evidence and the case was fixed for defendant's evidence when the application for amendment in the plaint was moved. At the said stage, the petitioner proposes amendment in the plaint in order to claim arrears of rent w.e.f. 01.01.1997 to 27.12.2010 out of which it is submitted that some amount has been paid/tendered during the eviction petition. The period for which the petitioner could claim arrears of rent was claimed by him in the present suit. In case, during pendency of the present suit, by virtue of an ejectment order passed against the respondent, he is entitled to recover any amount as arrears of rent for any previous or subsequent period, the facts giving rise to the cause of action would be different and by no stretch of imagination that claim can be clubbed with the claim in the present suit.

After commencement of the trial that too after the petitioner had closed his evidence and the case was fixed for defendant's evidence, he could not be allowed to introduce new facts. As argued by learned counsel for the respondent and is also apparent from the impugned order passed by learned trial court that the respondent had produced certified copies of the judgment and decree passed by learned Additional Civil Judge (Senior Division), Moga vide which another suit for recovery of Rs.51,800/- as arrears of rent filed by the petitioner was dismissed and the appeal preferred by the petitioner was also dismissed by learned District Judge, Moga. Learned counsel for the respondent contends that the petitioner by way of proposed amendment intends to include that amount also for recovery of

which his suit has already been dismissed. Therefore, seen from every angle, the application for amendment filed by the petitioner deserved to be rejected outrightly.

Thus, finding that the proposed amendment had been rightly declined by learned trial court and the order suffers from no perversity, illegality or jurisdictional error warranting interference, the petition is dismissed.

**(SNEH PRASHAR)**  
**JUDGE**

**17.05.2017.**  
*jitender sharma*

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**