

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

Civil Revision No.2334 of 2017

Date of decision: 30.03.2017

Daljit Singh

...Petitioner

Versus

Pal Singh

...Respondent

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

Present: Mr. Manvinder Singh Sidhu, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner-tenant challenges the order dated 1.3.2017 (Annexure P/5) whereby the Rent Controller, Ludhiana has declined the amendment of the written statement under Order 6 Rule 17 of the Code of Civil Procedure, 1908.

The reasoning given by the Rent Controller, Ludhiana was that the issues had been framed and the landlord had already concluded his entire evidence and the trial had commenced. Merely because there was a default on account of the previous counsel was not a ground for allowing the application which was not on account of any subsequent event. The proposed amendment which was sought is that the rent note interse the parties has no legal value and the tenant is not liable to pay rent at the enhanced rate. Resultantly, the rent note dated 27.2.1998 could not be looked into for collateral purpose and it was not a binding document. Apart from that factum of property from which eviction was sought was stated to be in a very congested area and not suitable and sufficient for opening the business for which it was claimed. The son of landlord had applied to go

abroad for being driver and applied for the same through Palta Travels, Chandigarh.

A perusal of the pleadings would go on to show that it was a specific case of the landlord that rent note dated 27.2.1998 was executed at the rate of ₹ 1600/- per month along with increase of 10% every year. Thereafter, further rent notes were executed and rent was now at the rate of ₹ 4050/- per month with an increase clause. On the basis of the same arrears have been claimed and eviction sought on the ground of non payment.

This fact was admitted in the written statement to the extent that respondent had been regularly paying the rent as per rent note and the rent stood paid upto October, 2014. The premises had been taken on rent at the rate of ₹ 1050/- per month and there was a pressure to increase the rent. The plea of bonafide requirement was sought to be repelled by taking the plea that there was sufficient property adjoining the premises in question from which eviction was sought and the son of the landlord was well established.

It is thus apparent that the admission which has been made on an earlier point of time is sought to be withdrawn by the tenant. The argument which has been raised that amendment can be allowed at any stage is thus without any basis.

The principles have been laid down by the Apex Court in **Revajeetu Builders & Developers Vs. Narayanaswamy & sons and others (2009) 10 SCC 84** which read as under:-

“67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application

for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fraudulently changes the nature and character of the case? and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

68. These are some of the important factors which may be kept in mind while dealing with application filed under Order VI Rule 17. These are only illustrative and not exhaustive.

69. The decision on an application made under Order VI Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner.

70. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.”

It has been held that only bonafide and genuine amendments are to be allowed and where the admission has been made and sought to be withdrawn by taking totally contrasting stand by way of amendment, the same is not to be permitted.

Thus, keeping in view the above principles, this Court is of the opinion that amendment which is sought is in contradiction to the pleas

which had been taken earlier and therefore, in the absence of due diligence, it was not justified.

Keeping in view the above discussion, the trial Court was well justified in dismissing the application for amendment and the impugned order dated 1.3.2017 (Annexure P/5) does not suffer from any infirmity and illegality which would warrant interference by this Court in exercise of revisional jurisdiction.

Accordingly, the present revision petition is dismissed in limine.

March 30, 2017
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(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No