

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.3122 of 2016 (O&M)

Date of decision: 19.04.2017

Manoj Kumar & another

....Petitioners

Versus

Naresh Foot Wear Industry & others

...Respondents

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

Present: Mr.Parmod Parmar, Advocate, for the petitioners.

Mr.Deepak Sharma, Advocate, for the respondents.

G.S. SANDHAWALIA, J. (Oral)

The present revision petition, filed by the petitioner-landlord, is against the order dated 25.03.2016, passed by the Rent Controller, Ambala, whereby the application seeking amendment of the ejectment application under Order 6 Rule 17 CPC had been dismissed.

The amendment sought was only regarding the fact that the ejectment was not from the first-floor but from the ground-floor and the premises had been wrongly described. The reasoning given by the Rent Controller is that it would change the entire plea and no due diligence has been mentioned in the application and that the nature of the petition would change. The objections were well in the knowledge of the landlord but in spite of that, it was done at a belated stage.

Counsel for the respondents, thus, submitted that the order impugned is justified and once trial had started, it would not be appropriate, keeping in view the proviso of Order 6 Rule 17 CPC.

It is to be noted that though in the written statement dated 15.03.2011, it has been specifically averred that the respondents are tenants on the ground-floor since 1984 and not on the first-floor. The application

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under Order 6 Rule 17 was filed only on 04.01.2016 (Annexure P3). In such circumstances, counsel for the respondents is well justified to hold out that there was negligence on the part of the petitioners and their counsel as they continued with their case inspite of the fact that objection had been duly raised in the reply to the eviction application, whereby the description of the property had been wrongly given.

It is to be noticed that rules of procedures are hand-maids of justice and technicalities are not to stand in the way and the Courts are to adjudicate on the merits of the dispute and therefore, the reasoning, as such, given by the Rent Controller, is not justified. The other side could have been duly compensated by way of payment of costs. Reference can be made to the judgment passed by the Apex Court in **Sajjan Kumar Vs. Ram Kishan 2005 (13) SCC 89** wherein amendment was allowed of the plaint wherein the description of the suit premises was wrongly mentioned and objections were raised that it would lead to complications.

Accordingly, the present revision petition is allowed and the impugned order dated 25.03.2016 is set-aside, subject to payment of Rs.10,000/- as costs, to be paid to the respondents for unnecessarily causing them harassment to put in appearance before this Court.

19.04.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No