

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.2963 of 2017 (O&M)

Date of decision: 05.05.2017

Mandir Thakur Dwara

....Petitioner

Versus

Kanta Devi

...Respondent

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

Present: Mr.Shailender Kashyap, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

CM-9980-CII-2017

Application for placing on record documents as Annexures P5 & P6, is allowed, subject to just exceptions. Office to tag the same at appropriate place.

CR-2963-2017 (O&M)

The present revision petition, filed by the petitioner-landlord, is directed against the orders dated 12.04.2017 (Annexure P1), whereby the application for amendment of the written statement, has been declined by the Rent Controller, Ambala, on account of the fact that it was filed after the issued were framed and after the trial had commenced. It was further held that the proposed amendment was not, as such, which was not in the knowledge of the respondent.

The amendment which is sought to be incorporated in the written statement is to the extent that the property had been let out to one Kallu Ram and after his death, tenancy rights had been inherited by Jagdish Chand, his son. The respondent was, thus, the wife of the said person and the tenancy was inherited by her as well as by her daughter and 2 sons, namely, Dinesh and Shammi. Accordingly, on account of the fact that Dinesh was co-petitioner of the respondent in another application, filed under Section 12 of the Haryana Urban (Control of Rent & Eviction) Act, 1973, on an earlier occasion, on 11.08.2016 (Annexure P6), the amendment was sought on the ground that the counsel had missed out the said fact.

Counsel for the petitioner has argued that the present petition has been filed on 06.10.2016 and by oversight this fact was not mentioned and thereafter, the application was filed.

Under Order 6 Rule 17, the purpose of amendment is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Merely because one of the co-tenants has filed an application under Sections 9 & 10, to provide the amenities, as such, against the landlord, there would be no such necessity, in the opinion of this Court that the other legal heirs of Jagdish Chand would be, as such, necessary to be impleaded or to be mentioned in the written statement that the other legal heirs were also necessary and the petition was not maintainable. Nothing could be shown, as such, as to how any prejudice will be caused in case the amendment is not allowed or that there is any such legal bar of the tenants to file the petition for providing necessary amenities without impleading the other tenants. In such circumstances, this Court is of the opinion that the findings, as such, which has been recorded by the Court below, does not suffer from any material irregularity or illegality or has occasioned a failure of justice which would warrant interference by this Court, in revisional jurisdiction.

Accordingly, finding no merit in the present writ petition, the same is, hereby, dismissed in limine.

05.05.2017

Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No