

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

C.R. No. 3802 of 2014
Date of decision: 11.01.2017

Onkar Nath and another

....Petitioner(s)

Versus

Karnail Singh and others

...Respondent(s)

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

Present: Mr. Dheeraj Mahajan, Advocate,
for the petitioners.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition has been filed by the petitioners-landlord challenging the order dated 13.02.2014 (Annexure P-4) passed by the Rent Controller, Amritsar whereby, the application moved by him under Order 6 Rule 17 CPC seeking amendment of the ejectment petition has been dismissed.

It is pertinent to mention that in spite of service, none has put in appearance on behalf of the respondents-tenants.

The reasoning given by the Rent Controller vide the impugned order is that the proposed amendment would change the entire ground of ejectment and would prejudice the respondents as altogether a different case is pleaded vide the proposed amendment which would not be in the essence of law.

A perusal of the paper book would go on to show that the ejectment application (Annexure P-1) was filed on 16.02.2012 on account of arrears of rent and the fact that the respondents were the tenants on the

first floor of the building in question and was required by the petitioners who are father and son. The premises which was in occupation of the respondents was to be demolished and reconstruction was to be done both for residential and non-residential purposes.

The same was contested by filing the written statement by denying the relationship of landlord-tenant and that the ground of ejectment was not available since the ground of ejectment from the residential portion for non-residential purposes was not maintainable. The petitioners were stated to be already doing the business in the shop situated on the ground floor.

It is pertinent to notice that the case was at the initial stage when the application for amendment was filed which would be clear from the impugned order as the case was fixed for consideration of assessment on the provisional rate of rent for the next date when the application was dismissed. The amendment which has been sought only gives the details as to how the premises in question have to be utilized by the petitioners and the family members. Specific instances have been given as to how the area is to be utilized and how petitioner no. 2, who is the son, is to be set up in the accommodation which is sought to be vacated on the ground of bona fide requirement. The reasoning, thus, which has been given by the Rent Controller is not justified.

Even otherwise, this aspect has been examined by this Court in ***Mrs. Surinder Kaur Bakshi vs. M/s. Chopra Glass House and others, 2013 (3) PLR 142*** wherein, it has been held that if there is no statutory bar as such and an independent case can be filed, then the amendment should be allowed. Similarly, in ***M/s. Estralla Rubber vs. Dass Estate (Pvt.) Ltd.***

2001 (2) RCR 393, the Apex Court held that amendment can be allowed if no serious prejudice is caused to the opposite party and no accrued right is taken away. It is settled principle that amendment of pleadings at the instance of the first party litigating is always to be liberally construed.

In the present case, no prejudice as such would be caused to the respondents specially keeping in mind the fact that it would be always open to the petitioners-landlords to file a fresh petition with better particulars on the same cause of action.

Accordingly, the revision petition is allowed. The impugned order dated 13.02.2014 (Annexure P-4) is quashed. The application for amendment is allowed, subject to payment of ₹2,000/- as costs, to be paid to the opposite side.

11.01.2017
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No