

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 24.08.2017****CR No.5663 of 2017 (O&M)**

Srist Kumar Kaushal

...Petitioners

Vs.

Anil Kumar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Karan Singla, Advocate, for the petitioners.

RAJIV NARAIN RAINA, J. (ORAL)

The Civil Judge (Junior Division), Patiala has dismissed the petitioning tenant's application for amendment of the written statement praying that a pleading in a prior case involving the landlords, but not the present tenant, contains averments in Para.10 of the written statement filed in that case that respondent No.2 (petitioner No.2 in the eviction petition) was 'feeble mind, old, ailing and simpleton and because of such ailment and three surgeries, the health and mind of the applicant No.3 had been deteriorating and with the passage of time, presently, his heal and mind has deteriorated to large extent'. Therefore, he should be permitted to amend his written statement by incorporating the status of the mental health of respondent No.2.

First of all, amendment of the kind sought is wholly out of context. Respondent No.2 may have undergone surgeries for brain-tumour and his health may be deteriorated, but it cannot be said that in a case of medical fitness where the illness is not a fact-in-issue and part of the cause of action on which a decree can be obtained, that his condition is such that it

grossly impairs judgment or suffers other disorientations enumerated in the Mental Health Act, 2017. The disorder must be substantial so as to incapacitate person from knowing what is right or wrong or good for him. Expressions like 'feeble mind' when used in pleadings in Indian courts where English is a foreign language, have to be taken with a pinch of salt and thus nothing depends on such use of words by a counsel with parties signing. In India we should not go into the nuances of English language and split hairs on what is meant by 'feeble mind' or and that it is a substantial disorder impeding judgment.

Forget about Respondent No. 2, so far as respondent No. 1 is concerned, he is fit and fine and can himself maintain an action for eviction of tenant as a co-landlord on permissible grounds. By the frivolous application aimed to protract the litigation the poor trial Court has been compelled to pass a lengthy order on the application dismissing it as devoid of merit and is correct in observing that the application was moved to linger on the case when the mental health of the petitioner is not in controversy in a rent petition.

Reliance on the judgment of the Single Bench in Siya Ram Vs. Jaswinder Singh & others [CR No.510 of 2016 decided on 01.02.2016] does not hold good since it deals with amendments which will not change the nature of the case though should be liberally allowed. Being liberal in exercising jurisdiction under Order 6 Rule 17 CPC may be justified in a case which demands amendment. The law in Mahila Ramlaki Devi Vs. Nandram (D), 22015 (5) RCR (Civil) 562 and the decision of this Court in Harbans Lal Vs. Dev Raj & others, 2003 (1) RCR (Civil) 222 cited is besides the point. The power to grant amendment of pleadings is intended to tailor the

needs of justice and is not governed by any such narrow or technical limitations. But as that is said, one cannot forget that the amendment sought must consist or comprise of those bundle of facts, which if proved would produce a decree. Whether petitioner No.2 in the original rent petition [respondent No.2 herein] is a mental case or not, has no connection with whether the eviction petition should be allowed or dismissed.

Consequently, I find no ground to interfere with the impugned order dated 11.07.2017 passed by the Civil Judge (Junior Division), Patiala and would dismiss the petition.

24.08.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>