

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CR No.711 of 2016

Decided on : 07.02.2017

Gurjot Singh Gill

... Petitioner

Versus

Vikramjit Singh

.. Respondent

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

Present : Mr.Deepak Nayyer, Advocate
for the petitioner.
Mr.Sudeep Mahajan, Advocate for the respondent.

G.S. Sandhawalia, J. (Oral)

Present revision petition is directed against the order dated 04.01.2016 (Annexure P/3) whereby the application for amendment of the ejectment petition has been dismissed by the Rent Controller, Amrtisar. The amendment which was sought, was regarding the details of ownership of the property owned by the landlord. The tenant objected to the application on the ground that it was only to fill up the lacuna and the facts were in the knowledge of the landlord at the time when the petition was filed. Therefore, ignorance of law was no excuse.

The Rent Controller noticed that it has been admitted during the cross-examination qua the ownership of other property, and therefore, the application was dismissed keeping in mind that the trial was already at the verge of conclusion and fixed for respondent evidence.

A perusal of the eviction petition would go on to show that the landlord has specifically mentioned in paragraph No.4 that he had not vacated any building for sufficient cause after the commencement

of the Act in the urban area of Amritsar and he had not occupied any building in the area of urban side of Amritsar. The respondent tenant had contested the same by filing the written statement that the petitioner owned and possessed other such commercial properties and he carries on business in Amritsar and he has pleaded this fact in the preliminary objections. In para No.4(ii), on merits, it was also mentioned that besides the property in question, the applicant also owned commercial property where he carries on business.

In the replication also, it has not been mentioned regarding the said fact and it was not disclosed qua ownership and occupation of the other properties. Rather in para 4(ii), it is mentioned that suitable property can be got vacated by the petitioner and the petitioner was getting property vacated for suitable bona fide need of the petitioner.

Perusal of the cross-examination of the petitioner would also go on to show that it is admitted that he owned a property SCF No.2, C-Block Market, Ranjit Avenue, Amritsar apart from ownership of other properties by his other members of the family. The said cross-examination was conducted on 03.03.2015. Thereafter, the application for amendment was filed whereby an effort was made to wriggle out of the admission which had come out in the cross-examination. It is settled principle of law that by virtue of amendment, party cannot be allowed to get out of his admission and the amendment should be bona fide in nature. The principles have been laid down by the Apex Court in case **Revajeetu Builders & Developers**

Vs. Narayanaswamy & Sons, SC, 2009 (10) SCC 84 wherein it has

held 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 fundamentally changes the nature and character of the case? And*
- (6) As a general rule, the court should decline amendments if a fresh suit or 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 6 Rule 17. These are only illustrative and not exhaustive.

69. The decision on an application made under Order 6 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.”

Keeping in view of the above, this Court is of the opinion that the order passed by the Rent Controller is justified in the facts and circumstances of the case and application for amendment, has rightly been declined, as not being a bona fide exercise.

Dismissed.

[G.S. Sandhawalia]
Judge

07.02.2017

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Whether speaking/reasoned

: Yes/No

Whether Reportable

: Yes/No