

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7383 of 2017
Decided on: 15.12.2017

Om Parkash and another

.... Petitioners

Versus

Pardeep Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Parteek Sodhi, Advocate for the petitioners.
Mr. Rishu Mahajan, Advocate for the respondent.

B.S. WALIA, J (ORAL)

[1] Challenge in the revision petition is to order dated 10.04.2017, i.e. Annexure P-5 whereby the application under Order 6 Rule 17 filed by the plaintiffs-petitioners was dismissed.

[2] Learned counsel contends that amendment was sought to incorporate allotment letter dated 29.11.2016 by way of application dated 02.03.2017 and that the application was dismissed on the sole ground that there was unexplained delay of almost three months in filing the application under Order 6 Rule 17 of the CPC.

[3] Learned counsel contends that since the amendment was necessary for the purpose of determining the real question in controversy between the parties, namely, whether the petitioner was entitled to the possession of the shops in question, therefore, the amendment ought to have been allowed, if need be, by imposing costs.

[4] Learned counsel for the respondent-defendant on the other hand has reiterated the reasoning given in the impugned order, namely, of the application having been moved after delay of three months.

[5] I have considered the submissions of learned counsel for the parties and am of the view that an amendment which is necessary for deciding the real question in controversy between the parties cannot be denied solely on the ground of its having been moved at a belated stage. Reference in this context is made to the decision of the Hon'ble Supreme Court in 2009(10) SCC 626. At best, the amendment could have been allowed, subject to payment of costs.

[6] In the light of the position noted above, impugned order Annexure P-5 dated 10.04.2017 is set aside. Amendment prayed for is allowed, subject to payment of cost of Rs.12,500/- to the respondent-defendant.

[7] Revision petition allowed as above.

(B.S. WALIA)
JUDGE

15.12.2017

Dinesh

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No