

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

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**CR No.8040 of 2016(O&M)
Date of decision: 27.02.2017**

M/s Leather Emporium

....Petitioner

Versus

Pandit Sohan Lal Sharma

...Respondent

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

Present: Mr.Vaibhav Narang, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

The present revision petition is directed against the order of the Appellate Authority, Amritsar dated 05.11.2016 (Annexure P4) whereby the application for amendment of the written statement of the petitioner-tenant, has been dismissed.

The amendment which was sought is that the Civil Court has passed a judgment dated 14.05.2014 in a suit for partition *inter se* the landlords and therefore, the objection was taken that the landlord has transferred his share of the property in favour of his mother-Vidya Wanti. Since it was during the pendency of the appeal and it is a subsequent event, the amendment is, accordingly, sought.

Same was opposed by the respondent-landlord on the ground that arguments had already concluded and the said judgment had no relevance as it had no bearing in the case. The tenant could not be permitted to introduce a new case and was bound by the defence taken in the written statement.

Counsel for the petitioner has vehemently submitted that once the property had been partitioned and was not falling within the share of the respondent-landlord, the amendment would have a relevant bearing.

The Appellate Authority, while declining the amendment, held that

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the decision of the Civil Court in the suit for partition would have no bearing on the facts of the rent petition, since even a co-owner could file an ejectment petition. The relationship, as such, had been denied and therefore, the amendment was not required. It was also noticed that an earlier amendment had also been prayed for, which was dismissed on 20.01.2016 and the said order had been upheld by this Court in 12.04.2016. Accordingly, a finding was recorded that it amounted to misuse of the process of law.

A perusal of the eviction order dated 02.05.2014, passed *inter se* the parties, which is the subject matter of the appeal, would go on to show that the eviction is sought on the ground of arrears of rent and there is denial of the relationship of landlord-tenant by the petitioner-tenant. However, on the basis of an earlier proceedings *inter se* the parties, the fact that the petitioner is a tenant, the issue was decided against the tenant.

It is settled principle that a co-owner, as such, can always file petition on behalf of the other owners. Thus, irrespective of the fact that in a subsequent event, as per the terms of partition, certain specific portions have evolved upon the co-owners, would not be relevant to adjudicate the dispute *inter se* the parties.

In such circumstances, there is no scope for interference in the orders passed by the Appellate Authority. Resultantly, the present revision petition is dismissed in limine.

February 27th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

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