

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

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**CR No. 2682 of 2018 (O&M)
Date of decision: 21.11.2018**

Ashwani Kumar

..Petitioner

Vs.

Waryam Singh and Others

..Respondents

CORAM:HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Prateek Sodhi, Advocate
for the petitioner.

Mr. D.S. Gandhi, Advocate
for respondent No. 1.

Mr. Himanshu Jain, Advocate
for respondent No. 3.

AJAY TEWARI, J.(ORAL)

This petition has been filed against order dated 21.03.2018 of the trial Court dismissing an application for amendment of written statement filed by the petitioner-tenant.

The ground taken is that the petitioner-tenant has been shown as a proprietor of the respondent No.2 (firm) but actually petitioner is only a manager and the trial Court rejected the application only on the ground of delay. Hence the present petition.

Learned counsel has argued that this amendment would actually be beneficial to both the parties because the fact of the matter is that the petitioner is not proprietor of the firm but a manager in the concern where some other persons are partners,

and thus any order which the respondent may be successful in obtaining would be of no use. As regards the delay counsel has argued that the respondent himself has already taken 8 opportunities to lead his evidence and has examined only one witness. Counsel for the respondent argues that there were two cases which had been filed by the petitioner-tenant through the present petitioner and that this application deserves to be dismissed on this ground.

In my opinion, the argument of the learned counsel for the respondent is not entirely correct. It may be that the petitioner is stating a falsehood where he says he is not proprietor and if this is so and is proved the amendment which has been sought would definitely go against him. On the other hand if the fact of the matter is that the petitioner is not the proprietor/partner of the tenant-firm then it would be in the interest of landlord also to prosecute the litigation against the real person rather than the petitioner. In the circumstances I set aside the order and allow the amendment subject to costs of ₹ 5,000/- for the lower Court and ₹ 10,000/- of this Court totalling ₹ 15,000/- to be paid by the petitioner to the landlord.

Petition stands disposed of.

November 21, 2018

Poonam (II)

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No