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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5475 of 2018

Date of Decision: 06.12.2018

Amarpreet S.Hansrao

..... Petitioner

Versus

Deepak Batra

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rajeev Gupta, Advocate,
for the petitioner.
None for the respondent.

SUDIP AHLUWALIA, J. (ORAL)

No one has put in appearance on behalf of the respondent,
inspite of service been effected.

2. The present revisional petition has been preferred against the
impugned order dated 12.12.2017, passed by the Ld. Civil Judge (Junior
Division), Chandigarh, in the Rent Petition filed on behalf of the
petitioner/landlord seeking eviction of the respondent.

3. Vide the impugned order, the petitioner's application for an
amendment of the original Eviction Petition under Order 6 Rule 17 of the
CPC was disallowed with the following observations:

*“Therefore, in view of the above discussion
and in view of the law laid down by the Hon'ble Apex
Court in its landmark decision titled as **“Pirgonda
Hongonda Patil V. Kalgonda Shidgonda Patil, AIR
1957 SC 363 and Dondapati Narayana Reddy V.***

Duggireddy Venkatanarayana Reddy, AIR 2001 SC 3685, I am of the considered opinion that the present application clearly appears to be an after thought and certainly not a typographical error. Now, if the present application is allowed, it would certainly cause prejudice to the opposite party and also would indeed change the entire nature of the civil suit. It would certainly change the basis of title to the property and would introduce new cause of action. As such, in view of the detailed discussion, the Court is of the considered opinion that there is no ground made out for allowing application under Order 6 Rule 17 CPC and same is hereby dismissed.”

4. This Court has also gone through the original Rent Petition (Annexure P-1). In Para No.1 of the said petition, it was the specific averment of the petitioner that, “*earlier the backside portion of first floor of SCO No.315, Sector 38-D, Chandigarh (hereinafter called the demised premises) was earlier let out by the father of the petitioner Sh. Amrik Singh to Sh. S.K.Verma son of Sh. J.N.Verma and to the respondent, S.K.Batra (jointly)*”.

5. Thereafter, in Para No.2 of the petition, it was averred that after expiry of the Lease Deed period “Sh. J.N. Verma vacated the demised premises and handed over actual physical possession” of the same to the father of the petitioner-Sh. Amrik Singh.

6. By way of the dismissed application, the petitioner had sought to amend the aforesaid averment in Para No.2 of the original Rent Petition by stating that actually it was S.K. Verma son of Sh. J.N. Verma, who had handed over such physical possession to the petitioner's father, but due to

typographical error, the name of his father J.N. Verma was mentioned in the original petition.

7. As the aforesaid averments would themselves indicate, the initial case of the petitioner was that deceased - J.N. Verma was jointly a tenant along with his son - S.K. Verma since the very inception.

8. In the given circumstances, the mention of Sh. J.N. Verma as the person who allegedly handed over possession of the demised premises back to the petitioner's father would not appear to be anything more than an innocuous oversight or typographical error, since by the own case of the petitioner, he was a tenant jointly along with his son S.K. Verma and, therefore, the observation of the Ld. Rent Controller to the effect that by way of amending the name of deceased – J.N. Verma and in his place seeking to mention the name of his son and co-tenant – S.K. Verma would change the entire nature of the Civil Suit or the basis of title to the property or introduce a new cause of action, would appear to be rather far fetched.

9. For the above reasons and in view of the fact that the respondent, inspite of service, has not even appeared to contest the present revisional petition, the same is allowed after setting aside the impugned order passed by the Ld. Court below. The amendment sought for by the petitioner consequently would also stand allowed with a liberty to the respondent to file any additional Reply/written statement against the same within such time as deemed fit by the Ld. Court below.

06.12.2018

Apurva

(SUDIP AHLUWALIA)
JUDGE

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|---------------------------------|---------|
| 1. Whether speaking/ reasoned : | Yes/ No |
| 2. Whether reportable : | Yes/ No |