

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

**CR No.5166 of 2018 (O&M)
Date of Decision : 13.05.2019**

M/s Aarsons and another

.....Petitioners

Versus

Gurdeep Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Namit Gautam, Advocate
for the petitioners.

Mr. Aayush Gupta, Advocate
for the respondents.

SUDIP AHLUWALIA, J. (ORAL)

This Revision Petition is directed against the impugned order dated 19th July, 2018 passed by the Ld. Rent Controller/Civil Judge (Junior Division), Ludhiana in Rent Petition No.178 of 2016.

2. Vide the impugned order, the Ld. Rent Controller had allowed an Application filed on behalf of the Respondent/Landlord, in which prayer was made to permit him to amend his original Site Plan filed along with the Rent Petition, which had been Marked Exhibit A-6, during the course of his evidence. The prayer was allowed inspite of objection being raised on behalf of the Petitioner/Tenant, whose Counsel has also cited a decision of this Court in '**Sushil Kumar**

Kaura vs. Dutt Pal Kapur', 1998(2) R.C.R.(Civil) 551, in which a similar prayer for amendment of earlier Site Plan filed along with the Complaint was dismissed by the Lower Court, and the decision was upheld by this Court, which held that since both the Site Plans had been prepared by qualified person(s), so there was no justification to change the original Site Plan.

3. In controverting the submission raised on behalf of the Petitioner, Ld. Counsel for the Respondent/Landlord has submitted that in the present case the original Site Plan itself was erroneous inasmuch as only a clerical mistake had occurred by way of showing one of the Shops belonging to the Landlord in Orange colour meaning it was in possession of another Tenant, whereas the adjoining Shop was shown in Yellow colour meaning that it was in possession of the Landlord himself, whereas the colours themselves ought to have been depicted against each other i.e. the Shop "B" shown in Orange colour in the original Site Plan, ought to have been shown in Yellow, while its adjoining Shop "I" in Yellow colour should have been shown in Orange. This according to the Respondent's Counsel was a case of pure clerical mistake and oversight on the part of his client since admittedly both the Shops are situated contiguous to each other with virtually identical dimensions and positioning.

4. It has been further submitted in all fairness by the

Respondent's Counsel that his client realized the mistake only after he was confronted with the same during his cross-examination on behalf of the Petitioner/Tenant, but, that since he was confused while in dock, he asserted the correctness of the original Site Plan, but subsequently realized the correctness of the suggestions made to him on examining the same more carefully.

5. It has also been emphasized that in any event the proposed amended Site Plan in which the colours of the aforesaid two contiguous Shop Rooms are sought to be interchanged, otherwise exactly tallies with the description as mentioned in Para Nos.4 and 5 of the original Rent Petition (Annexure P-1).

6. This Court is also of the considered view that this is *ex facie* a case of pure oversight and clerical mistake in the matter of assigning colours to two contiguous Shops wrongly, the colour for Shop “B” was meant for Shop “I” in the original Site Plan and *vice versa*. The Respondent/Landlord, in the given circumstances, can therefore not be penalized for such plain oversight, the incorrectness of which he realized only after completion of his cross-examination.

7. In fine it was clearly not a case of deliberate changing of colours with any view to mislead the Court, since, in any case, the quantum of accommodation actually available to the Landlord and let out to the other Tenant in the aforesaid two contiguous Shops either

way remains unaltered.

8. This Court, therefore, finds no justification for taking a view different from that of the Ld. Rent Controller in allowing the Amendment Application, as such, the present Revision Petition is therefore dismissed.

May 13, 2019
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No