

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

CR No. 551 of 2019 (O&M)
Date of decision: 13.2.2019

Smt. Manjinder Kaur

...Petitioner

Versus

Kirpal Singh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. Jasneet Kaur, Advocate, for
Mr. L.M. Gulati, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

CM No. 2614 CII of 2019

The application is allowed and Annexure P/4 is taken on record.

C.M. stands disposed of.

Main case

The petitioner herein seeks to challenge the order dated 29.9.2018 passed by the Rent Controller, Amritsar, whereby the application filed by the respondent herein under Order 6 Rule 17 of the Code of Civil Procedure seeking amendment has been allowed.

In brief, the facts are that the respondent herein filed a petition under Section 13 of the East Punjab Rent Restriction Act, 1949 for eviction of the tenant from the property as described in the head note. In response to the notice, the petitioner appeared and filed a written statement, inter-alia taking preliminary objections that the petition is bad for mis-joinder and

non-joinder of necessary parties. The petitioner stated that the respondent is not “Manjinder Kaur wife of late Shri Man Singh resident of Pakki Gali, Gurdwara Bhai Sobha Singh, Mahan Singh Gate, Amritsar”, but in fact, she is “Manjinder Kaur wife of Harvinder Singh, resident of House No. 2579/1-C, Mandir Wali Gali, Shadi Pur Main Bazar, Patel Nagar, Central Delhi, New Delhi”. However, taking the shop in question by Shri Man Singh son of S. Niranjn Singh in favour of Shri Charan Singh on rent and execution of rent note as well as rate of rent was not denied.

During the pendency of the eviction petition, the respondent herein moved an application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure seeking to amend the name of “Manjinder Kaur” as “Inderjit Kaur”. It was submitted that recently Inderjit Kaur had filed a petition under Section 31 of the Punjab Relief of Indebtedness Act against the petitioner and from the said petition the respondent came to know that after the death of Shri Man Singh, the person who is in possession of the property in question is known by the name of “Inderjit Kaur” and not “Manjinder Kaur”. The said application came to be allowed, giving rise to the instant revision.

Learned counsel for the petitioner submits that the impugned order passed by the Rent Controller is not sustainable in the eyes of law as the amendment of pleadings can be allowed only if any new fact came into existence after filing the pleadings or the same was not in the knowledge of the party concerned. As such, the impugned order is liable to be set aside.

I have heard learned counsel for the petitioner and perused the impugned order.

At this stage, it would be appropriate to reproduce Order 6 Rule 17 of the Code of Civil Procedure, which reads as under:-

“Order VI

Pleadings Generally

1. Pleading.—“Pleading” shall mean plaint or written statement.

xx xx xx

17. Amendment of pleadings.—*The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:*

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

From a bare perusal of the Rule re-produced above, it is abundantly clear that the Court may “at any stage of the proceedings” allow either party to alter or amend his pleadings in such manner so as to determine the real controversy between the parties. Proviso (ii) is to the effect that an application for amendment shall not be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

In the opinion of this Court, the amendment that was sought does not change the nature of the petition or the relief that is being sought.

The petitioner herself in her written admitted taking of the shop in question

on rent by S. Man Singh and the person, namely Inder Jit Kaur, who is sought to be impleaded in place of the tenant/respondent is none but a person related to S. Man Singh. The fact of Inder Jit Kaur being in possession of the property came to the knowledge of the respondent when she filed a petition under Section 31 of the Punjab Relief of Indebtedness Act against the respondent. Thereafter, immediately, the respondent filed the application for amendment seeking change of the name of the respondent/tenant. The amendment as sought does not alter the nature of the petition. Moreover, the trial is at the very initial stage and no prejudice would be caused to the petitioner by the amendment allowed.

Consequently, the revision petition is dismissed being bereft of merit.

13.2.2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No