

CR No.6250 of 2019

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

CR No.6250 of 2019
Date of decision: 01.10.2019

M/s Cargo Motors Ltd. and another

.....Petitioners

versus

Sadhu Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Prateek Gupta, Advocate, for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this revision under Article 227 of the Constitution of India, tenants have laid challenge to order dated 18.07.2019 (Annexure P-12) of the Appellate Authority, whereby their application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of written statement has been dismissed.

Briefly, respondent-landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against the petitioners on following grounds: -

- “(i) Petitioners have made material additions and alterations, including removal of shutter from point A to B and shifting the same at point C to D covering entire verandah in front of the demised shop without consent and raising sheds by digging and putting heavy load on the wall from point E to H shown in the site plan, to impair and diminish the value and utility of the demised property.
- (ii) Petitioners have also demolished two bathrooms of the

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size 59' x 6' and converted the same into their office and also constructed first floor without his permission.

- (iii) Petitioners have also lifted floor of the demised shop (showroom) without consent and have violated provisions of the Rent Act by constructing sheds and first floor in the vacant area, which has obstructed light and ventilation in the demised shop.

The Rent Controller, after due notice to the petitioners, holding trial, accepted the petition of respondent-landlord vide order dated 10.03.2016 (Annexure P-7).

Being aggrieved, petitioners approached the Appellate Authority along with two applications i.e. one under Order 6 Rule 17 CPC for amendment of written statement and another under Order 41 Rule 27 CPC to lead additional evidence to prove letter (Annexure P-3) to plead that respondent-landlord had consented for the aforesaid additions and alterations done by the petitioners.

Appellate Authority, after hearing both the sides, vide impugned order dated 18.07.2019 (Annexure P-12) dismissed application of the petitioners under Order 6 Rule 17 read with Section 151 CPC for amendment of written statement.

Learned counsel for the petitioners relying upon ***Revajeetu Builders and Developers v. Narayana Swamy and sons and others***, (2009) 10 Supreme Court Cases 84 and ***Chakreshwari Construction Private Limited v. Manohar Lal***, (2017) 5 Supreme Court Cases 212, *inter alia* contends that amendment sought in the written statement is very much material to effectively adjudicate legal rights of the parties. Appellate Authority has failed to appreciate that letter (Annexure P-3), which the

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petitioners want to plead and introduce in their pleadings, could not be mentioned earlier on account of resignation of their Chief Executive Sh. S.K. Agarwal long back before filing of the eviction petition against the petitioners.

Having given thoughtful consideration to the above submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

The very basis of eviction petition filed by the respondent against petitioners was impairment of value and utility of the demised shop (showroom) by making huge additions and alterations.

Upon notice, petitioners simply denying the above stand of the respondent-landlord in their written statement, pleaded that no additions and alterations, as alleged, were done by them. Now, by way of amendment, petitioners want to somersault their earlier stand taking altogether contrary plea. Even otherwise, genuineness/authenticity of the letter (Annexure P-3) is completely doubtful inasmuch as it is coming belatedly from the custody of the petitioners. Therefore, such a document cannot be permitted to be made basis for *de novo* trial. It is apparent on the record that petitioners-tenant want to fill up a lacuna at the appellate stage, which is not legally permissible.

Appellate Authority has rightly observed that resignation of Chief Executive of the petitioners relates to insignificant aspect of the case inasmuch as letter (Annexure P-3) was very much in their custody and not that their Chief Executive had taken it away with him, while leaving the petitioners. Allowing amendment sought by the petitioners would amount

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to turning the entire trial *de novo*. The Rent Controller would take around another five years or considerable time to the peril of the respondent-landlord in disposal of the eviction petitioners against the petitioners.

More so, it is apparent that petitioners kept on sleeping in a great slumber and awoke after around three years of passing of eviction order by the Rent Controller on 10.03.2016 against them and filed instant application in the year 2019, though they had preferred appeal in the year 2016 itself. This conduct of the petitioners being an afterthought can safely be declared as a clever device to delay the decision of their appeal/eviction proceedings with a *mala fide* intention to retain possession of the demised shop for a maximum period, which they may be able to manage. No justifiable reason has been shown to permit amendment in the written statement.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioners has not been able to show any such infirmities in the order of the Appellate Authority.

Facts and circumstances of the authorities referred to above relied upon by learned counsel for the petitioners are not identical to the facts of the present case. Therefore, no benefit of the same can be given to the petitioners.

No question of law much less substantial has been raised in this revision.

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Dismissed.

Nothing observed in this order shall effect the decision in application of the petitioners under Order 41 Rule 27 CPC, which shall be decided in accordance with law.

(Ramendra Jain)
Judge

October 01, 2019
R.S.

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No