

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

CR No. 6991 of 2019 (O&M)

Date of decision: 15.11.2019

Neha Arora

...Petitioner

Versus

Neeru Mahajan and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Veneet Sharma, Advocate,
for the petitioner.

Mr. BM Vinayak, Advocate,
for respondent No.1/Caveator.

JAISHREE THAKUR, J.

1. This revision has been filed praying for setting aside the order dated 24.9.2019 passed by the Rent Controller, Amritsar, whereby the application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the petition filed under Section 13 of the East Punjab Rent Restriction Act, 1949 (for short '**the Act**') has been dismissed.

2. The facts in brief are that the petitioner herein, along with her sister respondent No.2, filed a petition under Section 13 of the Act seeking ejectment of respondent No.1 from the demised premises on the grounds of arrears of rent and bonafide need for her own use and occupation. The said petition was contested by respondent No.1, while admitting herself to be a

tenant as well as rate of rent.

3. During the pendency of the petition, respondent No.1 filed an application under Order 6 Rule 17 of the Code of Civil Procedure (hereinafter referred to as '**the Code**') on 8.9.2015 seeking amendment of the written statement to the effect that her husband—Chander Shekhar has died and has left behind respondent No.1 as well as one son and a daughter and as such they also have become tenants in the property in question. The said amendment was allowed on 3.5.2017. In view of the amendment allowed in the written statement, the petitioner also filed an application under Order 6 Rule 17 of the Code for amendment of the petition, seeking to implead the legal heirs of Chander Shekhar and also to make an averment that after the death of Chander Shekhar the tenancy was continued by the legal heirs of late Chander Shekhar. She also wanted to add that respondent No.1 has a number of properties in her possession being owner and therefore, the need of the petitioner and her sister is bonafide and the respondent No.1 has not disclosed the property in her possession with the sole motive to harass and humiliate the petitioner. The Rent Controller dismissed the application while passing the impugned order on the ground that once the trial has commenced the application for amendment cannot be allowed. Aggrieved against the impugned order, the petitioner has filed the instant revision petition.

4. Learned counsel for the petitioner submits that the Rent Controller, while passing the impugned order, has failed to take into consideration that the amendments sought by the petitioner were

necessitated on account of the fact that the application for amendment of the written statement filed by respondent No. 1 was allowed. It is also submitted that as far as averments regarding owning of other properties by respondent No. 1 is concerned, the petitioner would not lead any evidence in support of the same but would only confront respondent No. 1 regarding this fact during her cross examination, which is yet to take place.

5. On the other hand, learned counsel appearing on behalf of the respondent No. 1 submits that the present case is an old one and in case the amendment as prayed is allowed, it would amount to denovo trial. It is also argued that the petitioner has taken extraordinary length of time for filing an application for amendment of the petition as the amendment of the written statement was allowed as far back 3.5.2017.

6. I have heard learned counsel for the parties and have also perused the impugned order.

7. 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.”

8. 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 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.

9. It is settled law that amendment can be allowed at any stage of the proceedings and should not be bound by technicalities in order to do justice between the parties. The Hon'ble Supreme Court in a recent judgment rendered in **Varun Pahwa Versus Mrs. Renu Chaudhary 2019 (2) R.C.R. (Civil) 383** has held that *“inadvertent mistake cannot be refused to be corrected when the mistake is apparent from the reading of the plaint. The Rules of Procedure are handmaid of justice and cannot defeat the substantive rights of the parties. It is well settled that amendment in the pleadings cannot be refused merely because of some mistake, negligence, inadvertence or even infraction of the Rules of Procedure. The Court always gives leave to amend the pleadings even if a party is negligent or careless as the power to grant amendment of the pleadings is intended to serve the ends of justice and is not governed by any such narrow or*

technical limitations.” In the opinion of this Court, the amendment that is being sought would not change the nature of the petition or the relief that is being sought. No doubt there is a delay on the part of the petitioner in moving the application for amendment, but the amendment as sought could not be declined only on that ground, particularly when the amendment sought does not alter the nature of the petition. Moreover, by the delay no prejudice would be caused to the respondent No.1, in case amendment as sought is allowed, since as a tenant she is in possession of the property.

10. Consequently, the revision petition is allowed, the impugned order is set aside. The application filed by the petitioner for amendment of the petition filed under Section 13 of the East Punjab Rent Restriction Act, 1949, is allowed subject to payment of ₹10,000/- to be paid to respondent No.1.

15.11.2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No