

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CR No.16427 of 2018 (O&M)  
Date of decision:13.3.2019

Sukhwinder Pal Singh

... Petitioner

versus

Parveen Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.J.S.Thind, Advocate,  
for the petitioner  
...

AMOL RATTAN SINGH, J. (Oral)

CM No.5472-CII of 2019

1. Pursuant to the order of this Court dated 7.1.2019, by this application, the applicant (petitioner in the accompanying petition) seeks to place on record the application earlier filed by the respondents under Order 6 Rule 17 of the CPC, seeking amendment of their petition before the Rent Controller by which they seek eviction of the present petitioner.

The application is allowed subject to all just exceptions and a photocopy of the application dated 29.4.2014, shown to be filed by the respondents herein (petitioners before the Rent Controller) under Order 6 Rule 17 read with Section 151 of the CPC, is taken on record as Annexure P-11 with the accompanying petition.

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2. By this petition, the petitioner challenges the order of the learned Rent Controller, Amritsar, dated 10.10.2018 by which a second

application filed by the respondents under Order 6 Rule 17 CPC, seeking to amend their petition, has been allowed.

Vide the said application (copy Annexure P-7, not shown to be dated), the amendment sought is to the effect that the first petitioner before the Rent Controller, i.e. Parveen Singh, had died on 6.7.2018, pursuant to which an application for impleading his legal heirs had been allowed by that Court and consequently, with the second respondent herein (second petitioner before the Rent Controller), i.e. his wife Inderjit Kaur, having become the eldest member of the family, who was required to maintain herself and her only daughter, Simran Kaur, the *bona fide* necessity for running the business left behind by Parveen Singh had arisen to her also.

Thus, paragraph 4(c) of the rent petition was sought to be deleted, with a new paragraph substituted in its place, along with some other amendments prayed for (to the effect that wherever the words applicant no.1 had occurred, it should now be read as applicant no.2).

Paragraph 4(c) of the unamended petition reads as follows:-

“That applicant no.1 is carrying on business of manufacturing furniture in a rented shop near Bazar Jallianwala Bagh, Gate Bagh Ramanand, Amritsar, and landlord of the applicant no.1 is pressing him hard to vacate the said rented premises. However, said tenanted property has also come under some Govt. Scheme and it can be demolished at any time by the Govt.”

The amendment now allowed, reads as follows:-

“That applicant no.2 requires the demised premises for her own use & occupation and after death of her husband she has to

carry on the business which was earlier to be carried out by her husband late Parveen Singh.”

Thus, the amendment is essentially in terms of what has already been stated hereinabove, that after the death of respondent no.1 herein, i.e. petitioner/applicant no.1 before the Rent Controller, (Parveen Singh), applicant/petitioner no.2 (respondent no.2 herein), i.e. Inderjit Kaur, needs the premises for her personal use to carry on the business which was earlier being run by her late husband.

3. Vide the impugned order, the learned Rent Controller while noticing an argument to the effect that a fresh application seeking eviction should be filed if respondent no.2 herein wished to amend the petition, rejected that contention by citing a judgment of the Supreme Court in Jai Parkash Gupta vs. Riyaz Ahamad and another, 2010(2) PLR 673, holding therein that once the owner had died and the children needed the premises in question, the Court at any stage could take that subsequent event into consideration and mould the relief accordingly.

Hence, holding that now the wife of the deceased applicant (the wife herself also being an applicant/petitioner before that Court), wanted to run the business to sustain herself and her family, and therefore wanted to say that it was for her personal need that it was required, the application under Order 6 Rule 17 CPC has been allowed.

4. Before this Court, Mr.Thind, learned counsel for the petitioner herein, submits that the respondents herein having two other commercial properties within Amritsar itself, they do not have any personal need for the demised premises, including a shop near Jallianwala Bagh where they are

already running their business.

He next submits that the petition before the Rent Controller earlier having been amended by the respondents herein, on an application filed under the same provision (Order 6 Rule 17 CPC) on 29.4.2014, a second petition at such a stage when evidence is being led before the trial Court, was not maintainable.

5. Having considered the aforesaid arguments, I see no reason to interfere with the impugned order.

As regards the first contention raised, that goes to the merits of the petition/application filed by the respondents herein before the Rent Controller, as to whether there was actually any personal necessity or not with either the late husband of respondent no.2 herein or with her herself, in view of the fact that they are contended (as per the present petitioner) to have other commercial premises from which they are running their business.

Naturally, that would be an argument to be considered by the Rent Controller at the time of adjudication of the rent petition itself on the merits of the contention of the respondents that they need the demised premises in the present *lis* for their personal need, which would be looked at as per the evidence led by both sides.

Hence, no comment is called for by this Court at this stage on the merits of the case before the Rent Controller, with the only issue to be considered in this petition being whether the application under Order 6 Rule 17 CPC has been correctly allowed or not.

As regards that issue, respondent no.1 herein, i.e. the husband of respondent no.2, admittedly having died on 6.7.2018, and the earlier

application filed under Order 6 Rule 17 being of the year 2014, (it having been allowed on 9.3.2015), that amendment would have no nexus with the reason given in the application which has now been allowed by the learned Rent Controller.

Order 6 Rule 17 of the CPC reads as follows:-

**“17. Amendment of pleadings.-** The Court may at any stage of the proceedings allow either party to alter or amend his pleading 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.

(2) Every application for amendment shall be in writing and shall state the specific amendments which are sought to be made indicating the words or paragraphs to be added, omitted or substituted in the original pleading”

Thus, the proviso to sub-rule (1) of Order 6 stipulates that no amendment shall be allowed (in the case of either party), if what is sought to be incorporated in the pleadings by way of the amendment was something which could have been incorporated in the original plaint/petition, with due diligence exercised by the applicant.

6. In the present case, as already stated hereinfor, the first

respondent herein having died only in July, 2018, naturally and obviously, the consequences of such death could not have been incorporated by any amendment, even with 'due diligence' prior to that.

Consequently, finding no merit in this petition, it is dismissed *in limine*.

13.3.2019  
pk

( AMOL RATTAN SINGH )  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No