

**CR-7575-2019 (O&M)**

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

**CR-7575-2019 (O&M)**

**Date of decision : 28.11.2019**

Aswani Kumar

... Petitioner

Versus

Rajesh Kumar Jain

... Respondent

**CORAM: HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. S.S. Walia, Advocate for the petitioner.

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**ALKA SARIN, J.**

The present revision petition has been filed challenging the impugned order dated 16.11.2019, whereby the application under Order 6 Rule 17 of the Code of Civil Procedure, 1908, seeking amendment of the plaint, has been dismissed.

Briefly stated facts are that the plaintiff-petitioner, had filed the suit for mandatory injunction directing the defendant-respondent to hand over the vacant possession of first floor of the building. The case set up by the plaintiff-petitioner was that he had inherited the tenancy rights from his grandmother-Kaushlaya Devi, by virtue of a Will dated 14.03.2005. After execution of the Will, the plaintiff is said to have remained in possession of first floor of the tenanted premises as tenant, but later, the defendant-respondent is alleged to have illegally and forcibly dispossessed the plaintiff-petitioner from the tenanted premises.

The suit was filed on 21.05.2015 and written statement was filed on 29.07.2015. In the written statement, the stand taken by the defendant-respondent was that the building, in question, is in dilapidated condition and not fit for human habitation and further that the roof of the

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building has collapsed. No replication was filed to the written statement by the plaintiff-petitioner. Thereafter, issues were framed on 23.11.2016. Plaintiff-Kirpa Sagar, tendered his affidavit in examination-in-chief, on 18.07.2017 and he was cross-examined partly on 19.01.2019. During the cross-examination, photographs (Ex.D1 to D5), showing the building, were put to him and specific suggestions were put to the witness regarding the dilapidated condition of the building. The plaintiff-petitioner concluded his entire evidence on 07.09.2019. Thereafter, defendant-respondent tendered the affidavit of two of his witnesses on 22.10.2019. On 07.11.2019, the matter was listed for cross-examination of the defendant's witnesses. However, the same was not done and the case was adjourned to 16.11.2019. On the same day, plaintiff-petitioner moved the present application for amendment of the plaint.

The present application is nothing, but an abuse of process of law, inasmuch as the same has been filed, after the commencement of the trial. Further, the facts narrated above, clearly reveal that the stand taken by the defendant-respondent, in his written statement, was that the building was unsafe and unfit for human habitation. However, plaintiff-petitioner chose to keep quiet from 2015 till 16.11.2019. The purpose of filing the application under Order 6 Rule 17 of CPC seems only to delay the proceedings.

In view of above, I find no merit in the present revision petition, accordingly, the same is dismissed.

**28.11.2019**  
Yogesh Sharma

**( ALKA SARIN )**  
**JUDGE**

|                           |                |
|---------------------------|----------------|
| Whether speaking/reasoned | <b>Yes/ No</b> |
| Whether Reportable        | <b>Yes/ No</b> |