

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

**390**

**CR No.1050 of 2020**

**Date of Decision : 09.08.2022**

Om Parkash Sethi & Anr.

....Petitioners

**VERSUS**

Shashi Bhushan

....Respondent

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

Present : Mr. D.K. Prajapati, Advocate for the petitioners.

Mr. Sanjay Verma, Advocate for the respondent.

**ALKA SARIN, J. (Oral)**

The present revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 04.01.2020 (Annexure P-4) vide which the application filed by the tenant-petitioner under Order VI Rule 17 of the Code of Civil Procedure, 1908 has been dismissed.

Learned counsel for the tenant-petitioner would contend that the evidence of the tenant-petitioner was closed on 02.07.2019 and another shop owned by the respondent-landlord was vacated by the tenant one Mahesh Kumar on 04.07.2019. The application for amendment was filed by the tenant-petitioner on 09.07.2019. It is the contention of learned counsel for the tenant-petitioner that the shop, which has now been vacated by Mahesh Kumar, is suitable for the respondent-landlord to start his business.

On the other hand there is a complete denial on the part of the respondent-landlord and it has been stated that the shop is still being run by Mahesh Kumar. It is the contention of learned counsel for the respondent-

landlord that the application has been moved at the fag-end and hence the application has rightly been dismissed.

I have heard learned counsel for the parties.

In the present case the shop is stated to have been vacated by Mahesh Kumar on 04.07.2019 and on 09.07.2019 i.e. within five days the application for amendment was filed by the tenant-petitioner. The said amendment would be necessary for the purposes of determining the real question and controversy between the parties. Further, it cannot be said that the facts sought to be incorporated by way of amendment were within the knowledge of the tenant-petitioner and that he chose not to file the amendment application earlier. The amendment application has been promptly filed by the tenant-petitioner on 09.07.2019.

Keeping in view the totality of the circumstances and in order to do complete justice between the parties, the impugned order dated 04.01.2020 is set aside and the application filed by the tenant-petitioner under Order VI Rule 17 CPC for amendment is allowed. Both the parties shall be given two effective opportunities to lead their evidence.

The present revision petition is disposed off in the above terms.  
Pending applications, if any, also stand disposed off.

**09.08.2022**  
**jk**

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

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO