

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

345

CR No.1289 of 2022

Date of Decision : 27.10.2022

Parmod Kumar

....Petitioner

VERSUS

Naveen Parkash Aggarwal

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Narender Pal Bhardwaj, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 11.03.2022 (Annexure P-6) vide which the application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC') for amendment of the written statement has been dismissed.

Learned counsel for the tenant-petitioner would contend that the tenant-petitioner had filed an application under Order XI Rule 14 CPC for production of the sale deed. The said sale deed was produced by the landlord-respondent. The application under Order XI Rule 14 CPC was disposed off vide order dated 23.01.2020 wherein it was noticed that the tenant-petitioner reserved his right for filing an amended written statement. Subsequently, an application under Order VI Rule 17 CPC was filed for amendment of the written statement wherein the tenant-petitioner sought to amend the written statement by adding paras 7 and 8 to the preliminary objections and amending paras 1 and 4 of the written statement on merits. Primarily by way of present amendment, the tenant-petitioner wanted to

incorporate that vide sale deed dated 06.10.2016, which was supplied to the tenant-petitioner on an application moved under Order XI Rule 14 CPC, the landlord-respondent had purchased super-structure of property bearing shop no.5245/1, 5245, 5245/5, Gur Mandi, Ambala Sadar, measuring 78 sq. yards vide the sale deed dated 06.10.2016 to the extent of ground floor only and that the landlord-respondent was not the owner and landlord of first floor of the property.

The said application was contested by the landlord-respondent by filing a reply. Vide the impugned order dated 11.03.2022 the application was dismissed. Aggrieved by the said order, the present revision petition has been filed by the tenant-petitioner.

Learned counsel for the tenant-petitioner would contend that the application for amendment of the written statement had been filed at the initial stage inasmuch as the evidence of the landlord-respondent is yet to commence. It is further the contention that the written statement was initially filed prior to decision of the application under Order XI Rule 14 CPC and it was only subsequently that the copy of the sale deed dated 06.10.2016 was supplied to the tenant-petitioner. Learned counsel for the tenant-petitioner would further contend that no prejudice would be caused to the landlord-respondent in case the present amendment is allowed.

Per contra learned counsel for the landlord-respondent has contended that nothing would turn on the said amendment. He is, however, not in a position to deny that the evidence of the landlord-respondent is yet to commence.

I have heard the learned counsel for the parties.

It is trite that the law regarding amendment of the written statement is more liberal than that applicable to the amendment of the plaint. In the present case the amendment of the written statement was necessitated after the tenant-petitioner received a copy of the sale deed dated 06.10.2016 on an application filed under Order XI Rule 14 CPC. The amendment application has been filed at a stage when the evidence of the landlord-respondent is yet to commence. That being so, no prejudice would be caused to the respondent-landlord at this stage.

In view of the above, the present revision petition is allowed and the impugned order dated 11.03.2022 is set aside. Accordingly, the amendment application filed by the tenant-petitioner stands allowed.

Pending applications, if any, also stand disposed off.

27.10.2022
jk

(ALKA SARIN)
JUDGE

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