

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3126-2022
Decided on : 08.08.2022

M/s Jeewan Kumar & Brothers and another Petitioners

Versus

Neelam Rampal Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinod Kumar Kaushal, Advocate
for the petitioners.

Manjari Nehru Kaul, J.(Oral)

The petitioners-tenant are impugning the order dated 16.05.2022 passed by the Rent Controller, Amritsar vide which an application filed by them under Order 6 Rule 17 CPC for amendment of the written statement, was dismissed.

Learned counsel for the petitioners *inter alia* contends that the impugned order is patently illegal and the Rent Controller failed to exercise its discretion as per the settled principles of law. He submits that the Rent Controller failed to appreciate that the proposed amendment was material for a just and effective adjudication of the matter in dispute. He further submits that subsequent to the filing of the rent petition, certain events had come to the fore from which it was discernible that the respondent-landlord was wanting to sell out the demised premises. Thus, her ground for eviction i.e. bona fide need, was a mere eyewash. Learned counsel still further submits that the proposed amendment of the written statement would not in any manner delay the trial as the respondent-landlord had already been cross-examined on those aspects and

still further, the petitioner would not be leading any further evidence in the said regard.

Heard learned counsel for the petitioner and perused the relevant material available on record.

Before proceeding further, it would be apposite to observe that a proposed amendment of pleadings must satisfy the following two conditions before it can be allowed:

- (i) it shall cause no injustice to the other side and
- (ii) it would be necessary to determine the real controversy between the parties.

The Courts, no doubt, must adopt a liberal approach while adjudicating upon an application for amendment of proceedings, however, having said that, the Courts must also be vigilant enough to thwart any mischievous attempt to create obstacles in the adjudication of a case.

Adverting to the case in hand, the petitioners are seeking amendment of written statement to incorporate the following subsequent events:

“It is stated that project of laying down new washing lines, doubling of track lines, electrification of the station and extension of Chheharta Railway Station by way of constructing new platforms started and completed about two months back, due to which each and every train, which will come in Amritsar Railway Station, would certainly come at Chheharta Railway Station for washing and on account of this, the railway phatak will remain closed most of the time in a day, which will create traffic jam in the bazaar and there is possibility of construction of bridge over the railway crossing situated about few feet distance from the demised shop and due to this reason, the applicant wants to sale out the property in question and the bonafide need ground taken

in the petition is altogether false and baseless. Hence, the applicant is not entitled to any relief.”

A perusal of the proposed amendment of the written statement leaves no manner of doubt that the same is based on mere assumptions and presumptions of the petitioner, as has also been rightly observed by the Rent Controller. The possibility of construction of a Railway Over Bridge in future and the respondent-landlord wanting to sell the demised premises in view of the same are rather too far fetched. Nothing fruitful would be gained in allowing the aforesaid proposed amendment. This Court, thus, has no hesitation in concurring with the observations made in the impugned order by the Rent Controller that the proposed amendment could not be said to be necessary for determining the real controversy between the parties. The respondent-landlord was cross-examined on 18.12.2018 and as per the learned counsel, he was also cross-examined on this aspect of the proposed amendment. However, strangely, the application under Order 6 Rule 17 CPC was moved only on 10.12.2021 and that too when the defence of the petitioner had been closed by Court order. It is obvious that the present application, which has been moved at the final stage of the trial is just a ploy to prolong the proceedings. This Court would, therefore, desist from interfering in the impugned order passed by the Rent Controller.

As a sequel to above, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

08.08.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No