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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: April 27, 2023

Pawan Kumar Thakur (since deceased) through LR

....Revisionist

versus

Harmohan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Vaibhav Sehgal, Advocate for revisionist/tenant.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 06.12.2022 (Annexure P-4) passed by learned Rent Controller, whereby application filed by revisionist/tenant for filing additional written statement, was dismissed.

2. The revision petition is premised on the averments that respondent No.1 herein-landlord filed a petition seeking ejectment of revisionist-Pawan Kumar (tenant) from the demised premises. Pawan Kumar died during pendency of ejectment petition and thereafter, his LRs were impleaded. They filed an application for filing additional written statement. Vide impugned order dated 06.12.2022 (Annexure P-4), said application was dismissed.

3. Learned counsel for revisionist/tenant would contend that impugned order has been passed in grave violation of settled judicial precedent and statutory provisions of law. He contends that when application seeking impleadment of legal representatives of Pawan Kumar (since deceased)-tenant has been allowed, then they ought to be permitted to take appropriate defence.

4. I have heard learned counsel for revisionist/tenant and perused the case file.

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5. Impugned order dated 06.12.2022 (Annexure P-4) passed by learned Rent Controller, Ludhiana, is premised, *inter alia*, on the following reasoning:

“4. Having given the thoughtful consideration to the arguments advanced from both the sides, in the light of material available on record, I do not find any merits in the present application.

5. The purpose and object of Order 6 Rule 7 CPC is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. The power to allow the amendment is wide and can be exercised at any stage of the proceedings in the interests of justice on the basis of guidelines laid down by Hon'ble Apex Court and various Hon'ble High Courts. It is to be kept in the mind that the amendment cannot be claimed as a matter of right and under all circumstances. After the amendment Act of 2002 in Code of Civil Procedure, 1908, the party seeking an amendment after the stage of commencement of trial has to satisfy the Court that the party could not have raised the matter before the commencement of trial, despite due diligence. Moreover, in "**Piragonda Patil Vs. Kalgonda Patil**, AIR 1957 (SC) 363", it has invariably been held that leave to amend will be refused where the application for amendment is not made in good faith. In the instant case, the applicant seeking the amendment, has failed to plead and thereafter, disclose to the satisfaction of the Court that as to what amendments are to be made by them in the present written statement and why at the very first instance and in the due course of time, the said amendments were not made in the written statement, as, earlier also, the respondent has moved an application for amendment of the written statement, which was accordingly allowed. Perusal of the application shows that the applicant has merely stated that he wants to take some other pleas which are available to him by amending the present written statement. However, no such pleas have been mentioned by him in the body of the application, which can satisfy the Court to the effect that the amendments are very much essential for the proper decision of the case. Ensuant to the discussion laid above, the present application of the applicant stands straightaway dismissed, being without any merit.

6. Before parting with the present order, it is hereby made clear that the opinion expressed hereinabove is tentative in nature and shall have no effect on the final decision of this case.”

6. Perusal of application seeking to file additional written statement does not reflect as to what necessitates the legal representatives of deceased to file additional written statement other than the fact that merely because revisionist and pro forma respondents-LRs of original tenant Pawan Kumar have been added as

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parties after the death of predecessor-in-interest, is no ground to file additional written statement.

7. Having heard arguments of learned counsel for revisionist, there is no room for interference in the aforesaid valid reasons recorded by learned Rent Controller.

8. No material irregularity in law or procedure has been committed by learned Rent Controller, so as to exercise extraordinary revisional jurisdiction herein.

9. Dismissed. However, dismissal of revision shall not preclude the revisionist to file additional written statement, in case, there is any independent right or claim of his required to be established or there is a subsequent development, provided such grounds are specifically pleaded in the application, subject of-course to discretion of learned Rent Controller to permit or decline the same, in accordance with law.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 27, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No