

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.1802 of 2019 (O&M)
Date of Decision : 24.05.2023

M/s Gurbachan Singh & Sons and Another

....Petitioners

VERSUS

Sukhjinder Kaur

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Akhilesh Vyas, Advocate for the petitioners.

Mr. Shubham Mehta, Advocate for
Mr. Vivek Salathia, Advocate for the respondent.**ALKA SARIN, J. (Oral)**

1. The present revision petition has been filed challenging the order dated 07.02.2019 whereby the application under Order VI Rule 16 and 18 of the Code of Civil Procedure, 1908, has been allowed.

2. The brief facts relevant to the present *lis* are that the respondent herein filed an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949. In the written statement filed by the petitioners herein, the relationship of landlord and tenant was denied. Nevertheless, the provisional rent was assessed and the amount assessed was deposited. Thereafter, an application was filed under Order VI Rule 17 CPC for amendment of the ejectment petition wherein the only amendment sought was :

“(i) At the last of sub para No.(ii) of para no.6 may kindly be added as “The applicant is getting pension of her deceased husband but she is not having any

independent business income and that pension is not sufficient to fulfill her daily needs”

3. The said amendment was contested and was finally allowed. The petitioners consequently filed an amended written statement. Subsequently, an application was filed by the respondent herein under Order VI Rules 16 and 18 CPC for striking out the amended written statement as the same was beyond the scope of the amendment which had been allowed by the Court. The application was filed primarily on the ground that in the amended written statement filed by the petitioners herein the relationship of landlord and tenant was admitted though in the earlier written statement the relationship had been denied. The application was contested and was allowed vide the impugned order dated 07.02.2019. The operative portion of the said order reads as under :

“4. From the submissions made by the learned counsel for the Parties I am of the considered view that the admission of relationship of landlord and tenant made by the respondent in the amended written statement is beyond the scope of the amendment allowed by this court. In the previous written statement filed by the respondent, he had denied the relationship and even from the wording of the sentence in para no.5, it seems that there has been inadvertent mistake in the omission of the word 'no' between the word existence of relationship. Therefore, the explanation of the learned counsel for the respondent that the respondent's witnesses have admitted the relationship in their

evidence seems to be an after thought as in the initial written statement filed by the respondent, the relationship was denied. Therefore, the present admission made by the respondent in the amended written statement is beyond the scope of the amendment allowed by this court and is therefore liable to be struck off. Therefore, the application of the petitioner/applicant is allowed.

Now to come up on 14.2.2019 for final arguments.”

4. Learned counsel for the petitioners would contend that once the amended written statement was filed and the replication thereto was also filed but this ground was not raised, as such, the application itself was not maintainable. It is submitted that grave prejudice would be caused to the petitioners if the impugned order is not set aside.

5. Heard.

6. In the present case, while allowing the amendment application the only amendment permitted was to para 6(ii). There was no other amendment which was sought by the respondent herein. However, while filing the amended written statement the petitioners have totally gone beyond the amendment which was allowed by changing the stand taken in the original written statement. From denying the relationship of landlord and tenant in the original written statement, now the relationship of landlord and tenant was admitted in the amended written statement. Learned counsel for the petitioners has not been able to convince this Court that while filing an amended written statement any amendment can be carried out beyond the

amendment allowed in the ejectment petition. Since the amendment was sought only to para 6(ii), the amended written statement had to be filed only in regard to amended paragraph and totally a new stand could not be permitted to be taken in the amended written statement.

7. Learned counsel for the petitioners has relied upon a judgment of the Hon'ble Supreme Court in the case of **Abdul Razak (D) through LRs & Ors. vs. Mangesh Rajaram Wagle & Ors. [2010 (1) RCR (Civil) 717]**. The said judgment would not come to the rescue of the petitioners inasmuch as Order VI Rule 16 CPC reads as under :

“16. Striking Out Pleadings – The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading –

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the Court.”

8. The discretion is given to the Court, at any stage of the proceedings, to strike out or amend any matter in the pleading which otherwise is an abuse of the process of the Court. In the present case, filing of the amended written statement and totally changing the stand and going beyond the scope of the amendment allowed to the ejectment petition is nothing but an abuse of the process of the Court.

9. In view of the above, I do not find any merits in the present revision petition which is accordingly dismissed. It is made clear that the

petitioners herein shall file the amended written statement restricting the amendment to the amendment which has been carried out in the ejectment petition. Pending applications, if any, also stand disposed off.

24.05.2023

jk

(ALKA SARIN)
JUDGE

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