

2023:PHHC:160068

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1912-2023(O&M)

Date of Decision: December 13, 2023

Dharminder Pahwa

...Petitioner

Versus

Darshan Lal Dhingra

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vaibhav Sehgal, Advocate
for the petitioner.

Mr.Harvinder Singh Johal, Advocate
for the respondent.

ARCHANA PURI, J.

Through the present petition under Article 227 of the Constitution of India, the petitioner has invoked the jurisdiction of this Court to challenge the order dated 20.03.2023 (Annexure P-7) passed by Rent Controller, whereby, an application, under Order 6 Rule 17 CPC, filed by the petitioner for amendment of the petition, was dismissed.

The facts, as culled out from the paperbook are as follows:-

That, initially, petitioner-landlord had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, for seeking ejectment of the respondent (tenant) from the shop, as detailed therein. During the pendency of the said eviction petition, an application was filed for seeking amendment

of the petition, on the averments that boundaries of the property have not been correctly mentioned in the headnote of the plaint, only inadvertently and due to over-sight and typographical mistake. However, the boundaries have been correctly mentioned in paragraph No.1 of the petition as well as in the prayer clause, sale deed, transfer deed and the site plan. However, the mistake has occurred in mentioning of the boundaries, in the headnote of the petition only. This fact came to the notice of the petition recently. As such, to remove the ambiguity in the boundaries of the property in the headnote of the petition, the petitioner made a prayer for necessary amendment in the petition. However, in the application, it was also averred that the petitioner does not want to lead any evidence, in respect of proposed amendment. As such, no prejudice will be caused to the respondent, if the proposed amendment is allowed.

In reply, the respondent resisted the claim for amendment. He disputed the maintainability of the application and furthermore, on merits, it has been denied that it was due to over-sight, that the boundaries have not been correctly mentioned. Further, it is denied that the proposed amendment is formal in nature and it will not change the nature of the petition. As such, a prayer was made for dismissal of the application.

Before proceeding further, it is essential to make reference to the decision rendered by the Hon'ble Supreme Court in *Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another*, 2023(1) RCR (Civil) 851, wherein, the law relating to the amendment of pleadings was summed up in eleven points and specifically, few of the

relevant points, for allowing the amendment, are as follows:-

- All amendments are to be allowed, which are necessary for determining the real question in controversy provided, it does not cause injustice or prejudice to the other side.

Furthermore, a prayer for amendment is to be allowed:-

- if the amendment is required for effective and proper adjudication of the controversy between the parties;
- where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed;
- Amendment may be justifiably allowed, where it is intended to rectify the absence of material particulars in the plaint;

It was also observed that where the amendment sought is only with respect to the relief in the plaint and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

In the light of the aforesaid dictum, the amendment can be allowed at any stage, but for the good grounds, spelt out for the same.

However, learned Court below had assigned two reasons for dismissal of the application. Firstly, that the application for proposed amendment has been filed at a belated stage and secondly, that the boundaries already confronted to the petitioner, in his cross-examination and at that time, the petitioner had not sought amendment regarding the boundaries.

No doubt, it is at the fag end stage of the case that the application for amendment has been filed, but however, simply on the score of delay, the proposed amendment is not to be shut out.

In view of the various factors, which are required to be taken into consideration, while adjudicating on the application for amendment of a petition, it is pertinent to mention that it is required to take into consideration, whether the amendment is required for proper and effective adjudication of controversy between the parties and also, the proposed amendment would enable the Court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision.

While seeking the proposed amendment in the case in hand, the petitioner intends to rectify the boundaries of the demised shop, which has been incorrectly mentioned in the headnote of the plaint. However, at the same time, it is pertinent to mention that the boundaries, as spelt out, further in the contents of the petition, prayer clause, sale deed, transfer deed as well as the site plan, are stated to be correctly mentioned. In these circumstances, the identity of the property, as such, is not going to change with the allowing of the proposed amendment, more particularly, when the petitioner, as such, does not want to lead any fresh evidence, in respect of proposed amendment.

Thus, the proposed amendment, is intended to be made to rectify only the boundaries as mentioned in the headnote of the plaint, whereas, no change, as such, is to be made with regard to the assertions of the grounds for seeking ejectment or with regard to the identity of the property, which also stands mentioned correctly, in the contents of the plaint. Considering the aforesaid, no malafide, as such, can be spelt out, on the part of the petitioner, while moving the application for amendment. No

gain would also be made by the petitioner, who is the landlord, for making further delay in the decision of the case. Moreover, the proposed amendment is not going to change the nature of the suit.

For the reasons recorded aforesaid, the present revision petition is hereby allowed and the impugned order is set aside. The application filed by the petitioner for amendment of the plaint stands allowed.

December 13, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No