

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.139

Case No. : CR-4757-2023 (O&M)

Date of Decision : August 21, 2023

Paramjit Kaur and others Petitioners

vs.

Malkit Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Raman Singla, Advocate
for the petitioners.

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GURBIR SINGH, J. :

1. Challenge in this revision petition, filed by petitioners-defendants under Article 227 of the Constitution of India, is to the order dated 07.07.2023 (Annexure P-7), passed by learned Civil Judge (Junior Division)-II, Kapurthala (hereinafter referred to as - the Trial Court), vide which, the application under Order 6 Rule 17 CPC, filed by the plaintiffs-respondents to amend the plaint, has been allowed.

2. Plaintiffs-respondents filed a suit for ejectment against the defendants-petitioners inter alia on the ground that the suit premises was let out to Paramjit Kaur in the year 2013 @ Rs.5,000/- per month, for 11 months, with increase but they failed to pay the rent w.e.f. 01.02.2015. Defendants contested the suit and filed the written statement. During pendency of the suit, an application for amendment of the plaint was moved by the plaintiffs-respondents.

3. Learned counsel for the petitioners has submitted that issues were framed long time back. Trial of the case has already commenced. the proposed amendment was within the knowledge of the plaintiffs-respondents at the time of filing of suit. The said amendment would change the nature of the suit. Earlier, an application under Order 15 Rule 5 CPC for directing the defendants-petitioners to deposit the arrears of rent was moved but the same was dismissed vide order dated 03.03.2023 (Annexure P-5) on the ground that only ejectment had been sought and recovery of the arrears of rent had not been claimed. Thereafter, the instant application has been filed. It is further submitted that when a party, in spite of having knowledge of a fact prior to filing of suit, later files the application for amendment of plaint, then such an application cannot be allowed because it may change the nature of the suit. Therefore, the impugned order passed by learned Trial Court is against law. Reliance in this regard has been placed on **Sham Kumar Kohli vs. Ashok Tandon and another - Law Finder Doc Id # 906680** and **Raj Mohinder Pal vs. Madhvi Luthra and others - Law Finder Doc Id # 964258**.

4. I have heard the submissions made by learned counsel for the petitioners and perused the case file.

5. The plaintiffs-respondents have filed the suit for ejectment on the ground of non-payment of arrears of rent w.e.f. 01.02.2015. By way of amendment, the respondents have sought to recover the arrears of rent w.e.f. 01.02.2015. The amendment sought by the respondents is not on the basis of new cause of action or any new fact. All the facts have already been pleaded. Now, mainly recovery of arrears of rent has been sought, The

amendment sought by the respondents is not at all mala fide or would change the nature of the case. In the cases Sham Kumar Kohli (*supra*) and Raj Mohinder Pal (*supra*), it is held that with the proposed amendment, nature of the suit would be changed but in the case in hand, nature of the suit would remain the same. No prejudice would be caused to the other party as the plaintiffs-respondents have already pleaded that the defendants-petitioners are in the arrears of rent w.e.f. 01.02.2015.

6. In view of what has been discussed in the preceding paragraphs, I do not find any illegality in the impugned order passed by the learned Trial Court so as to warrant interference by this Court.

7. The present revision petition, being devoid of any merit, is hereby dismissed.

8. Pending applications, if any, shall stand disposed of along with this judgment.

August 21, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.