

301

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4856-2022 (O&M)

Date of Decision : 17.05.2023

Amit Bhandari and Others

....Petitioners

VERSUS

Harsh Saini

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.D. Sharma, Advocate for the petitioners.

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ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred under Article 227 of the Constitution of India against the order dated 11.07.2022 whereby the application under Order VI Rule 17 CPC filed for amendment of the written statement has been dismissed.

2. The respondent was duly served. However, none had put in appearance on his behalf on 17.01.2023, despite being duly served. Today also none has put in appearance on his behalf. Accordingly, the respondent is proceeded against *ex-parte*.

3. The limited prayer of the learned counsel for the petitioners in the present revision petition is that earlier an application for amendment was filed wherein the prayer made was for amendment of para No.13 and 14 of the preliminary objection and para No.2 of the written statement by way of amendment. The said application was dismissed vide order dated 13.03.2019

against which CR-2058-2019 has been filed challenging the said order. Thereafter the present application was filed wherein the prayer made was for adding the following paragraph as preliminary objection No.15 :

“That the property in question is not required by the petitioner for Abhey Saini as Abhey Saini has left India and has settled in Canada with his family and is not likely to return to India in the near future. Therefore, the alleged need as alleged by the petitioner is not existing and the petition with regard to alleged bonafide requirement for the need of Abhey Saini is liable to be dismissed. The alleged business of refreshment is lying closed for the last more than six months. On this score alone, the petition is liable to be dismissed.”

4. Learned counsel would further contend that while dismissing the application, the Rent Controller has dealt with the earlier application and not with the present application.

5. I have heard learned counsel for the petitioners.

6. The amendment sought in the present application is to the preliminary objection No.15. A perusal of the impugned order dated 11.07.2022 reveals that a different application has been dealt with by the Rent Controller wherein the prayer was to amend Para Nos.13 and 14 of the preliminary objection and paragraph 2 of the written statement. In view of the fact that a different application has been dealt with while dismissing the

application under Order VI Rule 17 CPC, the impugned order dated 11.07.2022 is set aside and the matter is remanded to the Rent Controller to decide afresh the application under Order VI Rule 17 CPC filed on 08.01.2020 wherein the prayer is to add preliminary objection No.15.

7. The present revision petition is disposed off in above terms.
Pending applications, if any, also stand disposed off.

May 17, 2023
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(ALKA SARIN)
JUDGE

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