

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-2112-2024

Date of Decision:-**18.04.2024**

SUDESH SOOD

... Petitioner

Versus

RAJEEV VERMA

... Respondent

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Abdul Shehbaz Thind, Advocate for the petitioner.

RITU TAGORE, J. (Oral)

1. Challenge in this revision is to the order dated 16.11.2023 (Annexure P-6) passed by Civil Judge (Junior Division), Ludhiana whereby the application (Annexure P4) to amend the earlier application for amendment, filed under Order 6 Rule 17 CPC (Annexure P-3), has been dismissed.

2. Learned counsel submits that respondent filed an execution petition (Annexure P-1) for execution of ejectment order dated 02.03.2017, passed against the petitioner. The petitioner, filed objections dated 16.09.2017 (Annexure P-2) to the execution petition, which are pending adjudicating before the learned Executing Court/Rent Controller, Ludhiana.

3. It is stated by learned counsel that petitioner moved an application under Order 6 Rule 17 read with Section 151 CPC for the amendment of the objection -petition, which is pending for adjudication before the learned executing Court. Stating further, learned counsel for petitioner pointed that in another civil suit for specific performance filed by the petitioner against the respondent, an application under Order 7 Rule 11

CPC moved by respondent for rejection of the plaint was allowed that necessitated the petitioner to file a civil appeal titled Sudesh Kumar Sood vs. Mukesh Gupta and others, which is pending for adjudication before the learned Appellate Court. Learned counsel for the petitioner urged, since filing of appeal against the respondent/decreed-holder was a subsequent event, and with intention to incorporate the aforesaid fact, petitioner moved an application for amendment of earlier application of amendment of objections. Learned trial Court, however, erred in disallowing the application vide the impugned order.

4. The learned counsel submits that the purpose of amending the pleading is to bring on record all the necessary facts, which are material for the adjudication of the *lis* pending before the Court. Learned executing Court, however, over looked the aforesaid settled position of law and hastily passed the impugned order. It is stated that proposed amendment is necessary for proper and effective adjudication of the matter in question. Thus, prayed to permit him to incorporate the subsequent event of filing and pending of appeal before the learned Appellate Court arising out of the civil suit titled as Sudesh Kumar Sood vs. Mukesh Gupta and Others in the application(Annexure P-3) by way of amendment,.

5. I have heard the learned counsel for the petitioner and have gone through the paper-book minutely.

6. It is matter of record that respondent has filed execution petition EXE/616 of 2017 titled Rajeev Verma vs Sudesh Sood (Annexure P-1), for execution of order dated 02.03.2017 and the petitioner has lodged the objections (Annexure P-2) in the said execution petition. It is also a matter

of record that the petitioner filed an application under Order 6 Rule 17 read with Section 151 CPC for amendment of objections petition (Annexure P-3) which is pending adjudication before the Execution Court.

7. As evident from the paper book and from the submissions of learned counsel for the petitioner, after filing an application of amendment of objection-petition on 14.11.2017 (Annexure P-3), the petitioner again moved an application for further amendment in objection- petition dated 19.09.2017, seeking to incorporate a subsequent event i.e. the filing of a civil appeal titled as Sudesh Kumar vs. Mukesh and others, arising out of order dated 27.08.2019 passed by Civil Judge (Junior Division) Ludhiana, which allowed the respondent's application under Order 7 Rule 11 CPC, in a civil suit for specific performance filed by the petitioner against the respondent. However, the learned executing Court disallowed the aforesaid request by passing the impugned order dated 16.11.2023 by concluding that there is no provision for amendment of application and further the amendment is not necessary for the adjudication of execution petition.

8. It is trite law that the parties should be given appropriate opportunity to plead their case before the Court for proper adjudication of the matter in controversy. There is no dispute over the position of law that the subsequent event can be taken into account by the Court. By way of amendment in the objection- application under Order 6 Rule 17 CPC (Annexure P-3), the petitioner wanted to add the factum of pending of appeal between the parties with respect to civil suit for specific performance filed by the petitioner against the respondent. As far as the relevancy of the said appeal in the execution is concerned that is to be weighed by the

Learned Court in the context of the matter. Preventing a party from presenting their pleadings is not justified in law. To that extent the impugned order is set aside and the petition is allowed, permitting the petitioner to added the fact of pendency of appeal titled Sudesh Kumar Sood vs. Mukesh Kumar Gupta, filed against the order dated 27.8.2019 passed by the Court of Civil Judge (Junior Division), Ludhiana, in the application under Order 6 Rule 17 read with Section 151 CPC, (Annexure P3) which is stated to be pending for adjudication before the learned trial Court. Nonetheless, the respondent shall be at liberty to raise his respective plea to rebut or oppose the aforesaid averments of the petitioner. The impugned order is set aside to the aforesaid extent only. The revision petition is disposed of accordingly.

9. Needless to mention that aforesaid opinion is limited to the prayer involved in this revision petition and has no bearing on merits of the case or any decision on the amendment of the objection petition pending for decision before the court.

10. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

18.04.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

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