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

(123)

CR-4996-2024

Date of Decision: - 02.09.2024

Manu Aggarwal

....Appellant

Versus

Lyallpur Khalsa Higher Secondary School and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sudhir Paruthi, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India against the order dated 03.07.2024 (Annexure P-4) whereby the application filed by the petitioner for amendment of the written statement has been dismissed.

2. Brief facts of the present case are that respondents No.1 and 2 had filed a petition for ejectment before the Rent Controller, Jalandhar in the year 2017 and a written statement (Annexure P-1) was filed by the petitioner. In the said written statement, objections had been raised that the respondent has no locus standi to file the ejectment petition and that Mr.Gurjeet Singh Syal was not the competent and authorized person to file the ejectment petition. Further, in para 1 of the reply on merits, reference was made to the resolution dated 09.03.2016 and it was stated

that it was a vague one and did not authorize Sh. Gunjeet Singh Sial to file the ejectment petition. In para 2 of the reply on merits, it was stated that the shop was let out to M/s Jullundur Marble Co. and the landlord had intentionally and willfully not made the firm M/s Jullundur Marble Co. as a party and thus, a plea with respect to M/s Jullundur Marble Co. was also raised. The issues in the present case were framed on 23.03.2018 and the respondents had closed its evidence on 19.12.2022 and even the petitioner had closed his evidence on 25.01.2024 and the rebuttal evidence had also been closed on 28.05.2024.

3. After having led the entire evidence, the petitioner moved an application (Annexure P-2) under Order VI Rule 17 of CPC for amendment of the written statement. In the entire application, it was not stated that as to what are the subsequent events after the framing of issues on account of which amendment was sought. Primarily, two amendments were sought; one amendment was with respect to the fact that in the absence of the firm M/s Jullundur Marble Company, the matter involved in the case could not be decided in a proper and judicious manner and thus, the petition as framed is not maintainable due to non-joinder of necessary party. As has been stated hereinabove, the plea with respect to M/s Jullundur Marble Co. had already been taken in paragraph No.2 of the reply on merits filed by the petitioner and thus, the said facts were in the knowledge of the petitioner at the time of the filing of the initial written statement and thus, the same cannot remotely stated to be subsequent events.

4. The second amendment which was sought to be made has been detailed in para 8-A of the application under Order 6 Rule 17 CPC which consists of two facets. One being that the resolution in favour of the respondent does not in any way empowers Sh. Gunjeet Singh Syal to file the petition under Section 13 of the East Punjab Urban Rent Restriction Act. It is highlighted that in para 1 of the reply on merits, which has been filed, a plea with respect to the said resolution had already been taken and it was stated that the same is vague and does not authorize Mr. Gunjeet Singh Syal to file ejectment petition. Even the other plea sought to be raised with respect to petitioner No.2 being defunct, is not shown to this Court to be a plea which could not be raised by the petitioner prior to the commencement of the trial i.e. till the date of framing of issues. Learned counsel for the petitioner has fairly submitted that no date, with respect to the averments to the effect that the Managing Committee, City Khalsa High School Lyallpur, Jalandhar (respondent No.2) has become defunct, has been stated in the application for amendment nor there was any specific averment as to when the said aspect came to the knowledge of the petitioner.

5. A reply was filed to the said application and it was specifically stated by the respondents that the said application has been filed only with an intention to delay and obstruct the proceedings in the main case and that the proposed amendment was not relevant and essential for the decision of the ejectment petition. It was further stated that the evidence of both the parties had been led and that at that stage the

application for amendment was not maintainable. It was also stated that respondent No.2 was a duly registered society and that the resolution empowers Mr. Gunjeet Singh Syal to file the ejectment petition. It was further stated that the tenant could not dispute the title and constitution of the landlord as the present petitioner had not denied the relationship of tenant and landlord in the written statement. It was further stated that M/s Jullundur Marble Co. was a sole proprietorship and a sole proprietorship has no legal entity and thus, the parties had been rightly impleaded.

6. The trial Court vide order dated 03.07.2024 had dismissed the said application for amendment of the written statement after observing that the conduct of the petitioner lacks bonafide and there was no due diligence in moving the said application. It was further observed that in view of proviso to Order VI Rule 17 the application for amendment deserves to be dismissed. Reliance was placed upon a judgment of the Hon'ble Supreme Court in case titled as "**Salem Advocate Bar Association, Tamil Nadu Vs. Union of India and others**", **reported as (2005) 6 SCC 344** and it was observed that the Hon'ble Supreme Court in the said case has held that the object of adding the proviso is to prevent frivolous applications which are filed to delay the trial. It is the said order which has been challenged in the present revision petition.

7. Learned counsel for the petitioner has submitted that the petitioner only wanted to elaborate the plea which was already taken and

thus, the amendment should be allowed. It is further submitted that the petitioner would not lead any evidence in case the amendment is allowed.

8. This Court has heard learned counsel for the petitioner and has perused the paper-book.

9. It is not in dispute that respondent Nos.1 and 2 had filed the rent petition for ejectment of the petitioner in the year 2017 and the issues in the present case were framed on 23.03.2018 and the evidence of the respondent-landlord was concluded on 19.12.2022 and even the petitioner closed his evidence on 25.01.2024 and thereafter, even the rebuttal evidence was closed on 28.05.2024 and the present application for amendment has been filed subsequently.

10. The proviso to Order VI Rule 17 of CPC specifically provides that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. In the present case, it is not disputed that the trial has commenced and rather, it is at the fag end. Counsel for the petitioner has not been able to show that in spite of due diligence, the petitioner could not have raised the pleas before the commencement of the trial, which are now sought to be raised in the amended written statement. The argument raised that the averments made in the application for amendment of the written statement are only to elaborate the pleas already taken also clearly shows that even as per the case of the petitioner, he was aware of the said pleas and thus, the same could have been taken prior to

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the commencement of the trial. In the present case, it is apparent that the petitioner, who is a tenant, is wanting to delay the proceedings which have been initiated by the landlord in the year 2017.

11. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the impugned order dated 03.07.2024 (Annexure P-4) passed by the Rent Controller, Jalandhar is legal and does not call for any interference and the present civil revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

September 02, 2024
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(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes