

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

**CR No.1646 of 2015
Date of decision : March 09, 2015**

Vijay Sharma

..... Petitioner

Versus

Swaran Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Harinder Sharma, Advocate,
for the petitioner.

GURMIT RAM, J.

1. This petition under Article 227 of the Constitution of the India has been filed by the petitioner for quashing of the order dated 06.02.2015 (Annexure P-5) passed by the learned Rent Controller U.T. Chandigarh vide which evidence of the petitioner (tenant) has been closed by order and order dated 24.02.2015 (Annexure P-7) passed by the learned Rent Controller U.T. Chandigarh vide which the application moved by the petitioner (tenant) for amendment of written statement has been rejected. Both the said orders are stated to be wrong, illegal being contrary to the facts on the file and without exercise of proper jurisdiction.

2. Regarding abovesaid order dated 06.02.2015 zimni orders passed by the learned Rent Controller are incorporated in this revision petition and from perusal thereof, it is transpired that the respondent-landlord had availed six opportunities to produce their evidence and close the same. The present petitioner-tenant also availed six opportunities to lead his evidence. Last date granted to him in this regard was 06.02.2015. On this date, he did not bother to lead any evidence and as such, his evidence was closed by order vide the impugned order dated 06.02.2015 (Annexure P-5). From the above, it is very much clear that the present petitioner has been granted ample opportunities by the learned Rent Controller to lead his evidence, but anyhow in the interest of justice he is granted one more opportunity to lead and conclude his evidence before the learned Rent Controller subject to cost of ₹5,000/-, half of which is to be deposited in the Legal Aid Fund and remaining to be paid to the landlord-respondent. Consequently the impugned order (Annexure P-5) dated 06.02.2015 is set aside.

3. The second impugned order dated 24.02.2015 (Annexure P-7) has been passed on the application dated 24.02.2015 filed by the present petitioner under Order 6 Rule 17 read with Section 151, CPC, for amendment of the written statement. Vide this application, he wants to take the pleas that petitioner No.2 is owner of MIG house in Sector 44, Chandigarh. Then during pendency of the petition, the entire second floor of House No.1275 Sector 15-B, Chandigarh was given on rent by the petitioners. The said facts were not within his knowledge earlier. Then it is

also his plea that as per his knowledge petitioner No.2 had left for U.S.A. with the intention to reside there. But the respondent-tenant did not attach any document along with this application to show that petitioner No.2 is owing a MIG house in Sector 44, Chandigarh. Further it is also not mentioned with any specific date as to when the petitioners rented out the entire second floor of House No.1275, Sector 15-B, Chandigarh. Then there is also no definite date given as to when petitioner No.2 had allegedly left for U.S.A. to reside therein. Then it is also found that the instant application has been filed before the learned Rent Controller when the case was fixed for rebuttal and arguments. Then it is also not mentioned with any certainty in the application as to when the petitioner-tenant came to know about the alleged subsequent events regarding which he sought amendment in the written statement vide this application. Then as per the record, it is also found that petitioner-tenant had also earlier filed another application under Order 6 Rule 17 read with Section 151 CPC for the amendment of the written statement which was disposed of vide order dated 01.07.2014.

In the light of above discussion, there is nothing wrong in the impugned order dated 24.02.2015 (Annexure P-7).

4. So this revision petition qua impugned order dated 06.02.2015 is accepted as observed in para No.2 of this order. The petitioner is directed to put appearance in the Court of learned Rent Controller, Chandigarh on 17.03.2015 and in that eventuality the learned Rent Controller will grant him one more effective opportunity in order to enable him to conclude his

evidence subject to cost as ordered above after giving due notice to the respondents (landlord). The petitioner is also at liberty to get *dasti* summons to ensure the presence of his witnesses which he wants to examine in this case.

5. Consequently, this revision petition stands partly accepted and partly rejected and disposed of accordingly.

March 09, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**