

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

**CR No.1749 of 2015(O&M)
Date of Decision : 17.3.2015**

Sanjay Gupta

.....Petitioner

Versus

Smt. Savita Rani

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Avnish Mittal, Advocate for the petitioner.

GURMIT RAM, J.

The petitioner – tenant has filed this revision petition against the order dated 24.2.2015 passed by the Rent Controller, Ambala in rent petition No.102-RBT of 2012/2013 vide which the application of the petitioner – tenant under Order 6 Rule 17 CPC seeking amendment of written reply-cum-counter claim has been dismissed.

2. The brief facts which are relevant for this revision are that the respondent – landlady filed a petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (in short – 'the Act') for ejectment of the petitioner – tenant from the demised premises. During pendency of the ejectment petition, the respondent – landlady appeared as witness and made certain admissions in the cross-examination which are detailed in para No.5 of grounds of this revision.

The same are as under:-

“.....I have been demanding the rent of Rs.5,000/-

which was prevailing at that time. I have no proof of Rs.5,000/- relating to that period. No receiptIt is correct that Sunil is working in the same portion. Self stated that his portion is separate from my property and he is owner of the said property. It is correct that the portion of Sunil and my property is having a common *chajja*. I have seen the photographs which are relating to the same *chajja* which *chajja* of the whole building. The building is having two stair case and both these stair case are common.....”

“.....My marriage was solemnized in the year 1962. It is wrong to suggest that this building is 6-70 years old, but this building is not 100 years old. It is correct that the same is in possession of Sunil and the portion which is in my possession, the *behra* in the ground is open to sky. The said *behra* is common for whole of the building and there is no roof from the inception.....”

Thereafter, the present petitioner – tenant filed an application under Order 6 Rule 17 CPC seeking amendment of written reply-cum-counter claim on the basis of above admissions made by the respondent-landlady in her statement. The learned Rent Controller after hearing the learned counsel for both the parties dismissed this application vide the impugned order dated 24.2.2015.

3. Feeling aggrieved from this order, the petitioner –

tenant has come up in the instant revision petition.

4. Arguments raised by the learned counsel for the petitioner are heard. He has contended that the impugned order is erroneous, illegal, void and against the facts and law and hence not sustainable in the eyes of law. It is further his contention that the learned trial Court has failed to apply its judicious mind while passing the impugned order. It is also his submission that the law regarding amendment of pleadings is liberal and the amendment in the pleadings which is necessary to determine the point in issue is to be allowed in the interest of justice. In support of his above contention, he has referred to certain case laws **Rajesh Kumar Aggarwal and Ors. Versus K.K. Modi & Ors., 2006(2) R.C.R.(Civil) 577, M/s Pitman's Shorthand Accadamy Versus M/s B.Lila Ram & Sons and ors., Vol.LII-1950, P.L.R. 1 and Ram Dutt Gupta Versus The financial Commissioner and anr., 1976 RCJ 632.** Further he has prayed that the impugned order be set aside by accepting the instant revision petition and the application filed by the petitioner under Order 6 Rule 17 CPC for amendment of the written reply-cum- counter claim be accepted.

5. There is no dispute with regard to the case laws cited supra by the learned counsel for the petitioner. But he has failed to produce any case law which permits any party to the litigation to amend his pleadings on the basis of statement of any witness made during the trial of the said proceedings. The basic law is that evidence is to be led on the basis of the pleadings of the parties. But in the case in hand, the petitioner – tenant is trying to make out some pleadings from the

statement of respondent - landlady as made by her during the pendency of the ejectment proceedings. Moreover, if some admissions are made by the respondent – landlady in favour of the present petitioner – tenant in the cross-examination, then the same can be used while addressing arguments in the main case. If the above plea of the learned counsel for the petitioner – tenant is to be accepted, then there will be no end to the pleadings. For instance if some other witness is examined during the pendency of the ejectment proceedings and says something in favour of the petitioner (tenant), then the petitioner (tenant) will also apply to seek amendment in his pleadings in the light of his said statement, resulting into multiplicity of pleadings causing a lot of confusions and uncertainty with regard to the matter in issue.

6. In view of the above discussion, this revision petition is found to be meritless and as such the same stands dismissed and disposed of accordingly.

However, this order will have no effect on the merits of the main case which is stated to be pending before the learned Rent Controller.

17.3.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes
2. Whether the judgment should be reported in the Digest? Yes