

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2058 of 2015

Date of Decision: July 21, 2015

Firm Arjan Das Ram Nath and anr.

.....Petitioners

Vs.

Sanjeev Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

-. -

Present:- Mr.V.K. Sandhir, Advocate
for the petitioners.

Mr. Sumeet Mahajan, Sr. Advocate with
Mr. Amit Kohar, Advocate, for respondent.

-. -

M.M.S. BEDI, J. (ORAL)

This is a revision petition against the order passed by the Appellate Authority dismissing the application for amendment of the written statement filed by the tenant- petitioners seeking to incorporate a plea in the written statement that the tenant- petitioners had come to learn that Kamlawati and Yashpal, grand-mother and father of the landlord-respondent owned another building which is known as Shobha Ram Market, situated in Shastri Market, Kamron Deori, Amritsar , which is near to the

demised premises and that in the said market various shops used to remain vacant from time to time and new tenants were inducted in various shops of the said market, during the period recent to the filing of the ejectment petition. They also sought incorporation of the plea that shop Nos. 3 to 6 which were let out vide rent note of the year 2000 stand vacated and new tenants namely, M/s T.S. Traders, M/s K. Brothers, M/s Sangam Traders, M/s Pannu Synthetics etc. had been introduced as tenants.

While dismissing the said application, the Appellate Authority had observed as follows:-

“It is correct that Kamla Wati has expired but it does not mean that respondent- petitioner inherited her property on her death as Kamla Wati had bequeathed her estate in favour of Sushma Arora by executing a Will Ex.A-4. So far as share of Kamla Wati and Yashpal in Shobha Ram Market is concerned, respondent- petitioner Sanjeev Arora has no concern with it and he cannot compel them to accommodate him in the said Market. So the possessing of some shops in the said market by Kamla Wati and Yashpal and rented out the same by them to various tenants during the pendency of present ejectment petitioner and appeal itself is no ground to debar the respondent- petitioner Sanjeev Arora to file the present ejectment petition for getting the demised

premises vacated from appellant/ respondent on the ground of personal necessity. Moreover it is well settled proposition of law that landlord is the best judge of his requirement and tenant cannot dictate him the terms to occupy a particular premises. In this regard reliance can be placed on judgment of our own Hon'ble Punjab and Haryana High Court reported in 2008 (1) RLR 605 titled as Lalita Gupta Versus Mahesh Kumar Gupta. Furthermore the facts which the appellant- respondent intends to add in the written statement by way of proposed amendments were in his knowledge as he has already cross-examined the witnesses of respondent- petitioner got examined by him before Rent Controller and as such it cannot be said that the said facts came to the notice of appellant- respondent during the pendency of the present appeal. The proposed amendment is also not necessary for the just decision of the present petition/ appeal as none of the shop allegedly lying vacant in Shoba Ram Market as well as on the first and second floor of the building where the demised premises is situated is either owned or possessed by the respondent- petitioner.”

Learned counsel for the respondent has brought to the notice of this Court by appending documents annexures R-1 to R-7 that the tenant-

petitioner had been seeking amendment of the written statement before the Rent Controller by incorporating similar pleas that the landlord has got other building in another market. Said application for amendment had been dismissed vide annexure R-1, R-3 and R-6.

I have heard learned counsel for the petitioner and carefully gone through the facts and circumstances of the case. The amendment which is relevant for the adjudication of the ejectment proceedings must be permitted to be incorporated but in the present case it is not sought to be incorporated that the respondent- landlord has in his possession any other property in his individual capacity. Even if it is presumed that father and grand-mother hold some property, it does not seem to be relevant for the decision of the case. Even if the grand-mother has died, the said subsequent event does not prima facie appear to be relevant for the adjudication of the personal necessity of the landlord- respondent Sanjeev Kumar. It appears to be a case where the tenant seeks to delay the proceedings before the Appellate Authority. Without expression of any opinion on merits of the case, I do not find any ground to interfere in the order passed by the Appellate Authority.

Dismissed.

July 21, 2015
sanjay

(M.M.S.BEDI)
JUDGE