

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 2011 of 2013
Date of Decision: 28.4.2015.**

Madan Lal

.....Petitioner

Versus

Narinderpal Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K.Bawa, Advocate
for the petitioner.

Mr. Kunal Dawar, Advocate
for the respondents.

SABINA, J.

Petitioner has filed this petition challenging the order dated 6.2.2013 whereby application moved by the petitioner for permission to amend the eviction petition, was dismissed.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Petitioner has filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the respondents from the demised premises on the ground of arrears of rent and personal necessity. During the pendency of the petition, petitioner moved an application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 for permission to amend the eviction petition. The said application was dismissed by the learned Rent Controller vide the impugned order dated 6.12.2013. Hence, the present petition by the petitioner-landlord.

Petitioner had sought ejectment of the respondents from the demised premises on the following grounds:-

- “(a) That respondent has not paid the rent from 1.3.2007 onwards and thus he is in the arrears of rent.*
- (b) The applicant is in need of the shop for personal necessity as he wants the shop in question to start his business of book binding.*
- (c) The applicant has no other shop except the shop in question to start the business of book binding.”*

Now by way of amendment, petitioner wants to add following paragraphs as para 9 of the petition:-

“Para No. 9(b) of the rent application:

'It is submitted here that sons of the applicant namely Parmod Kumar and Sanjay Kumar are doing their work in rented shops in Sirhind. Parmod Kumar is doing the work of scooter repair and Sanjav Kumar is doing the work of tailoring. Said Sanjay Kumar wants to settle his future and wants to run his tailoring business in the shop in question alongwith the applicant, who is doing the business of book binding for the last about 20 years. So the applicant requires the shop in question for his personal necessity and in order to settle his son in the shop in question'

Para No. 9(c) with the following para:

'At present, the applicant has not vacated any shop in the area administered by the Municipal Council, Sirhind-

Fatehgarh Sahib nor he has any other shop for his own requirement and for the requirement of his son. The necessity of the applicant is urgent, and bonafide one.'

Para No. 9(d) in the rent application:-

"That as per the terms and conditions of the rent agreement and as per the receipts, collected by the applicant in respect of house tax, the respondents are also in huge arrears of house tax. The respondents have not so far made the payment of property/house tax to the concerned Municipal Authorities, Sirhind since the year 2007 onwards. The applicant is being issued notices and Bills of House Tax by the Municipal Authorities, Sirhind. In that regard, the applicant many a times requested the respondents to pay the house tax of the shop in question, but to no effect.'

Para No. 9(e) in the rent application:-

'That the shop in question is in dilapidated condition and it has become unfit and unsafe for human habitation, as the shop in question has outlived its life. Even there are cracks in the roof and walls of the shop in question. In fact, the shop in question, in its entirety, requires reconstruction. The applicant has sufficient funds with him for its total reconstruction. It is further submitted here that the shop in question is part and parcel of the residential house of the applicant.'

Para No. 9(f) in the rent application:-

'That by their above said acts and conducts, the

respondents have impaired the utility and value of the shop in question.'"

The learned Rent Controller, while dismissing the application moved by the petitioner, rightly held that the petitioner could not seek new grounds for the eviction of the tenants by way of amendment. Initially, petitioner had sought ejectment of the tenants on the ground that he required the premises in question for his own use whereas now by way of amendment, petitioner also wants to claim that the premises in question was required by his sons and the building had become unsafe and unfit for human habitation and that the tenants had impaired the utility and value of the shop in question. The said grounds were available to the petitioner at the time of filing of the eviction petition but were not taken by the petitioner. Hence, now by way of amendment, petitioner cannot be allowed to plead new grounds for eviction of the tenants.

Petitioner by way of amendment also wants to claim that as per the rent agreement, tenant was required to pay the house tax. However, the amendment, by adding para 9(d) to the eviction petition, is not necessary as it relates to interpretation of the rent agreement. Once the agreement is proved on record, the arrears of rent would be determined as per the rent agreement or other evidence led by the parties.

So far as the plea of the petitioner qua adding of para 9(c) is concerned, the amendment in this regard was liable to be allowed by the learned Rent Controller as it appears that due to inadvertence, petitioner could not aver in the eviction petition that he had not vacated any shop in the area administered by the

Municipal Council, Sirhind-Fatehgarh Sahib nor he had any other shop for his requirement. The necessity of the petitioner was urgent and *bona fide* one.

Accordingly, this petition is partly allowed. The application moved by the petitioner for permission to amend the eviction petition is allowed to the extent that the petitioner is permitted to add the following para by way of amendment:-

“9(c) - At present, the applicant has not vacated any shop in the area administered by the Municipal Council, Sirhind-Fatehgarh Sahib nor he has any other shop for his own requirement. The necessity of the applicant is urgent, and bonafide one.”

**(SABINA)
JUDGE**

April 28, 2015
Gurpreet