

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 1882 of 2014 (O&M)

DATE OF DECISION : September 17, 2015

Tarun Kumar

..... PETITIONER(S)

VERSUS

Preeto

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Ashish Aggarwal, Advocate, for the petitioner.
Mr. Anil Chawla, Advocate, for the respondent.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES

3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

Vide order being assailed, dated 06.03.2014, prayer of the petitioner-tenant for amendment in his written statement has since been rejected.

What is sought to be pleaded, vide a proposed

amendment, is that during the pendency of the eviction petition, landlord-Preeto had got vacated another shop, which was re-let by her to a Bank and the Bank had even installed an ATM machine.

In response, respondent opposed the prayer for amendment and prayed for dismissal of the application.

On a consideration of the matter in issue, Rent Controller declined the prayer, seeking amendment in the written statement filed by the petitioner, and concluded, as thus:

“6. In my considered opinion, an application u/o 6 R17 read with section 151 CPC can be allowed only when the amendment is very essential and without amendment the just and fair decision of the case can not be arrived at. There are no particulars of date of vacating of property by original petitioner and the Trial has begun because the applicant has already examined its witnesses and in the mean while the application in hand is moved.

7. In my considered opinion, whatever averments are made by applicant in present application are a question of fact and if any such situation has arisen, that can be taken during the course of evidence and cross examination and in that circumstances, this is not a fit case where amendment of pleadings is required. If said practice is followed there would be no end to amendment because the amended proceedings are to be invoked in exceptional circumstances only. Therefore, finding no reason in allowing the present application, same is disposed of as dismissed.”

I have heard counsel for the parties and perused the

paper book.

Concededly, eviction of the petitioner is being sought on account of personal necessity. In the written statement filed by the petitioner, the alleged need is disputed, and is said to be ingenuine and not conceived in good faith. Even if, during the pendency of the proceedings, landlord had got vacated another premises in the same urban area and re-let the same to a Bank, that is just an instance or an event that has come into being subsequent to the parties having settled their pleadings. And can always be factored in while deciding the lis finally. But is not required to be pleaded, least by way of amendment. As otherwise, if such or similar events or instances occur a dozen more times, that would not mean the parties would continue to amend their pleadings. Further, evidence of the landlord was still being recorded when the order that is being assailed was passed. Meaning thereby, petitioner had an opportunity to cross-examine the landlord and even her witnesses, as regards the shop that she had got vacated and re-let to the Bank. In any case, petitioner was/is always at liberty to adduce an appropriate evidence in this regard. The submission advanced by the counsel for the petitioner that there are a few decisions vide which even the subsequent event was permitted to be pleaded by way of amendment, pales into insignificance once the petitioner has the liberty to bring on record all such events and instances.

In the wake of the position as set out above, no interference is warranted in exercise of revisional jurisdiction

under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. Petition being devoid of merit is, accordingly, dismissed.

SEPTEMBER 17, 2015
Kang

(ARUN PALLI)
JUDGE