

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2371 of 2014 (O&M)
Date of Decision: 10.02.2015

Hoshiar Singh

...Petitioner
Versus

Mandeep Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

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

Mr. H.P.S. Kochhar, Advocate
for the respondent.

R.P. Nagrath, J.

The petitioner-tenant has challenged the order dated 12.02.2014 passed by the learned Rent Controller whereby application for amendment of the written statement has been declined.

The eviction of petitioner is being claimed on the ground of bonafide requirement of respondent-landlord. Learned counsel for the petitioner contends that petitioner seeks to incorporate only the subsequent events which should have been ordinarily permitted. It is further contended that the Courts would be more liberal in allowing

amendment in the written statement than of a plaint as the question of prejudice would be far less in the former than in the latter and relied upon the principle held by Hon'ble Supreme Court in ***Sushil Kumar Jain Vs. Manoj Kumar and another, 2009(14) SCC 38.***

The eviction petition was filed before the Rent Controller in the year 2009. The petitioner seeks to incorporate by way of amendment that on about 02.08.2010, the landlord forcibly closed the back door of shop portion on ground floor from outside which opened in the back court-yard by using his muscle power, money power and taking benefit of his status inasmuch as he is a highly placed civil servant and has been posted as Principal Secretary, Department of Transport, Government of Punjab, Chandigarh. Even the police complaint made by the petitioner on 03.8.2010 was managed by respondent-landlord. Since there existed a latrine and bath in the back portion of ground floor of SCO, in occupation of petitioner-tenant, by removing the same and further by shutting the door opening in the open courtyard, respondent has restricted the tenanted premises and forcibly taken possession of part of it without following due process of law. It was stated that on the one hand, respondent-landlord has filed the petition for seeking ejectment of petitioner-tenant from the entire ground floor of SCO, which included shop portion, back courtyard, latrine and bath in the back courtyard but on the other, respondent-landlord has used force and permanently shut the back door of the shop portion opening in the open courtyard, thereby restricting use by petitioner-tenant of the

tenanted premises only to shop portion, causing serious prejudice to petitioner. The consequential amendments have also been prayed and further to set up a counter claim to make a prayer to the learned Rent Controller to assess the actual rent payable by the petitioner in proportion of the actual tenanted portion being utilised by the petitioner etc.

I have heard learned counsel for the parties at considerable length, perused the impugned order and the paper book.

According to the petitioner-tenant it is an admitted case that the rent deed dated 10.12.2007 for the period 01.08.2007 to 31.07.2009 establishes that the petitioner is in occupation of entire Ground Floor portion of SCO. Further it is admitted and pleaded case of respondent-landlord that petitioner was already a tenant in the entire ground floor of SCO No.2 Sector 10D, Chandigarh when the respondent became owner of the same. Thus the act of respondent-landlord in forcibly taking over almost half of tenanted premises is not only seriously prejudicial to the interest of petitioner, but respondent-landlord has also taken law into his own hands.

I find that the amendment prayed for cannot be relevant for deciding the eviction petition which is based on the ground of personal necessity. The petitioner-tenant has already filed a civil suit complaining the aforesaid acts, but it is submitted that the civil suit has been filed for restoration of the amenities only. It may, however, be seen that the alleged illegal acts of respondent-landlord happened

in August, 2010 but application for amendment was filed only on 08.05.2013 i.e. after expiry of almost 3 years.

Learned counsel for the petitioner submits that the delay has been satisfactorily explained because the petitioner in the meanwhile had filed an application before the Rent Controller for enforcement of the terms of settlement, but that prayer was not accepted on the ground that the alleged oral compromise cannot be enforced.

I am, however, of the considered view that the proposed amendment prayed for by the petitioner would not be relevant for the disposal of the eviction petition, though petitioner may have a remedy by way of filing suit to that extent or to file separate petition for restoration of amenities.

Dismissed.

(R.P. Nagrath)
Judge

10.02.2015
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