

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

**CR No.3487 of 2015(O&M)
Date of Decision : 26.5.2015**

Rajinder Singh

.....Petitioner

Versus

Hari Krishan Kakkar

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. D.S. Gurna, Advocate for the petitioner.

GURMIT RAM, J.

This revision petition has been preferred by the petitioner-tenant against the order dated 23.4.2015 passed by the learned Rent Controller, Chandigarh vide which his application under Order 6 Rule 17, CPC, seeking amendment of written statement has been declined.

2. Facts in brief are that the respondent herein (landlord) has filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short – *the Act*) for the ejectment of the petitioner herein (tenant) from the demised premises on the ground of personal necessity, which is stated to be pending before the learned Rent Controller. The tenant filed written statement in this petition. Now during the pendency of this petition, the tenant filed an application under Order 6 Rule 17, CPC, for amendment of written statement. Reply to this application was obtained. After hearing the learned counsel for both the

parties, this application was declined by the learned Rent Controller vide this impugned order, which necessitated to file the instant revision petition.

3. In the application under Order 6 Rule 17, CPC, filed by the tenant to amend the written statement, it has been mentioned that he wants to add paras No.6 to 9 in preliminary objections. The proposed paras No.6 to 9 are as under:-

6. *“That petitioner's plea of opening a super market from basement to top floor of the demised showroom is not only false and frivolous but is also impossible and not feasible in view of the fact that on the ground floor and major part of the First Floor, the real owner is in occupation.*
7. *That petitioner has laid his claim of ownership by showing a fabricated letter to the applicant thereby started claiming himself to be his landlord on the basis of a self created letter dated 19.7.2005. However, the petitioner is not the owner and the question of his opening the super market in the demised showroom does not arise. Hence the need projected is not bonafide.*
8. *That on the one hand petitioner has falsely claimed to be an owner of S.C.O. No.375, Sector 32-D, Chandigarh by sending a fabricated letter dated 19.7.2005 to the applicant and projected his need for the entire building accordingly. But on the other hand he has filed a civil suit against said Anupam Deep Kaur for seeking the declaration to the effect that he has become owner of her 50% share in the said S.C.O. on the basis of Will and power of attorney. Said suit is still pending and is being contested tooth and nail by*

said Anupam Deep Kaur. Thus petitioner is approbating and reprobating and thereby misleading this Hon'ble Court as regards his projected need. Copy of the plaint is attached.

9. That no sale deed has been executed in petitioner's favour of the showroom in question. It is submitted here that petitioner is merely litigating with the heirs of Major Gurpal Singh on the basis of alleged Agreements to Sell. The litigation has not attained the finality and matter is pending in the Hon'ble High Court, vide RSA No.3454 of 2013.....”

4. In the above-said proposed paras No.7 and 8 of preliminary objections, reference is made to one letter dated 19.7.2005. Then it is also mentioned in para No.8 that petitioner has claimed falsely to be an owner of S.C.O. No.375, Sector 32-D, Chandigarh by sending the said letter. But I have carefully gone through copy of the petition which is available on the file as Annexure P-2 and have found that the petitioner has nowhere claimed that he is the owner of the above-said SCO nor any reference of said letter dated 19.07.2005 is made in the entire petition. His simple claim is that he is the landlord of the demised premises and requires the same for his personal necessity.

5. If any litigation between the legal heirs of Major Gurpal Singh and the respondent herein on the basis of some agreements to sell, Will and Power of Attorney is going on qua the said S.C.O., then that also does not have any effect on the merits of the case in hand for the reason that the present petitioner-tenant is not a party to the said litigation. Then it is also not mentioned in the application for amendment as to when the tenant has come to know about the above-said facts. Then

in the case in hand, the above-said Anupam Deep Kaur is not made a party in this petition. If any order is passed in this case then that will have no effect on her right, if she has any in the demised premises nor she has ever come forward to become a party in this petition on the plea of being in possession of ground floor and some part of first floor of the above-said S.C.O. as alleged by petitioner-tenant in application under reference.

6. The plea which the present petitioner wants to take in written statement by way of proposed amendment is not found to be material for the proper adjudication of the matter in controversy. So, the case laws cited by the learned counsel for the petitioner i.e. **Rajesh Kumar Aggarwal & Ors. Versus K.K. Modi and Ors., 2006(2) R.C.R.(Civil) 577** and **Usha Balashaheb Swami and Ors. Versus Kiran Appaso Swami and Ors., 2007(2) R.C.R.(Civil) 830** are having no bearing on the facts of the case in hand. Then as per the record, the case is now pending before the learned Rent Controller at the stage of rebuttal evidence, if any, and arguments, which was filed in the year 2010. So the sole intention of the petitioner-tenant in filing the the instant application is to prolong the proceedings of the rent petition pending before the learned Rent Controller. Nothing wrong is found in the impugned order. So this revision petition is held to be meritless and as such it stands dismissed and disposed of accordingly.

26.5.2015
Brij

(GURMIT RAM)
JUDGE