

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

**CR No.4024 of 2015
Date of Decision : 1.7.2015**

Surinder Kumar

.....Petitioner

Versus

Gurpartinder Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. R.D. Bawa, Advocate for the petitioner.

GURMIT RAM, J.

This revision petition is filed by the tenant against the order dated 29.4.2015 (Annexure P-6) passed by the learned Rent Controller, Batala vide which his application for amendment of written reply was declined.

2. The brief facts pertaining to the background of this revision petition are that the respondent herein(landlord) has filed an application for ejectment of the petitioner herein(tenant) from the demised shop. During the pendency of this application, the petitioner herein (tenant) had filed an application under Order 6 Rule 17 and Section 151 CPC for amendment of written reply. The precise contention as mentioned in this application was that since there were two distinct and separate tenancies pertaining to each of the shops in question created at different times and as such separate applications for ejectment under the law were required to be filed. The respondent herein (landlord) has filed a

composite single ejectment application qua the said two separate and distinct tenancies which is not legally tenable. It was also the plea of the petitioner-herein (tenant) in this application that he wants to make further elaboration of his stand as taken by him in his written reply and for this purpose, the amendment sought in the written reply is essential one.

3. Learned Rent Controller after hearing the counsel for both the parties declined this application vide the impugned order (Annexure P-6).

4. Being aggrieved from this order the petitioner-herein (tenant) has come up before this Court by way of instant revision petition.

5. Learned counsel for the petitioner was heard and record as available on the file was also perused.

6. The learned counsel for the petitioner has mainly contended that purpose of seeking amendment in written reply in the instant case is to further elaborate the stand as taken by the tenant in his written reply. It was also his plea that there were two distinct and separate tenancies pertaining to each of the demised shops created at different times and as such one composite single ejectment application for seeking ejectment from the demised shops is not tenable in the eyes of law. Then it is also his contention that the landlord was required to file two separate ejectment applications for seeking ejectment of tenant from the demised shops. A copy of the written reply filed by the petitioner-herein (tenant) in this case before the learned Rent Controller is also available on record as Annexure P-3. A portion of para No.1 of reply is held to be relevant for deciding the above point in controversy which is reproduced as under:-

“That the demised premises in the form of two shops are in actual, physical and exclusive possession of the respondent as a tenant now under the applicant Gurpatinder @ Gurbinder Singh at a monthly rent of Rs.1,200/- consolidated, per month (i.e. Rs.600/- each of the shop), on the basis of an oral tenancy.

That the fact of the matter is that originally one of the two shops i.e. shop located on the western side towards Aliwal, was taken on rent from Sh. Balwant Singh, father of the applicant, at a monthly rent of Rs.600/- per month about 15 years ago, and whereas the second shop with stair case, located on the eastern side towards Batala, was taken on rent from Sh. Balwant Singh about 9 years back, at a monthly rent of Rs.600/- per month. The tenancy in respect of both the shops was oral accompanied with delivery of possession. Thus the relationship of landlord and tenant used to exist between Balwant Singh and the plaintiff.

That thus on the complete and detailed facts above stated, there are two distinct and separate tenancies pertaining to each of the shops in question created at different times, in respect whereof separate individual applications for ejectment were required to be filed according to law, which the applicant has not done, and instead thereof the applicant has filed a composite single application qua the two separate, distinct tenancies which is

legally not maintainable, and the present application is liable to be dismissed on that short score without further trial.”

7. From the above discussed pleading as put forth by the tenant in his written reply filed by him already in this case before the learned Rent Controller, it is found that he has already taken the stand that there were two distinct and separate tenancies qua the demised shops created at different times. So as such there is no need to seek any amendment of written reply for making elaboration of his above stand taken already in the written reply. Basic plea of two distinct and separate tenancies qua the demised shops, he has already taken. If he wants to make any elaboration qua this plea, he can do so by leading his evidence to that effect as per law. Then as per the record this ejectment application was filed in the month of March, 2011 and applicant has already closed the evidence. The case is now fixed for evidence of the respondent.

8. In the light of the above discussion, this revision petition is held to be meritless and the same stands dismissed and disposed of accordingly.

Nothing observed hereinabove will have any effect on the ejectment application which is stated to be pending before the learned Rent Controller, Batala.

1.7.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes/No
2. Whether the judgment should be reported in the Digest? Yes/No