

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

(109)

CR No.4712 of 2015

Decided on: July 28, 2015.

Rajinder Kumar Goyal

.... Petitioner

Versus

Som Nath Garg

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Yogesh Gupta, Advocate,
for the petitioner.

M.M.S. BEDI, J (ORAL)

Petitioner is a tenant in a shop mentioned in heading of the ejectment petition filed under Section 13 of the East Punjab Urban Rent Restriction Act by the landlord-respondent. The ejectment petition has been filed on the ground of personal necessity which is being resisted by the tenant-petitioner by filing written statement. Vide impugned order, an application filed for amendment of the written statement has been disallowed.

With the assistance of learned counsel for the petitioner, I have gone through the facts and circumstances of the case.

The plea which tenant-petitioner seeks to incorporate in the written statement is that a Will had been executed by the landlord-respondent in favour of his son Ajay Kumar and his wife Ashri Devi on 21.01.2010. The said Will, was later on cancelled retaining the rights of the son Ajay Kumar. The execution and partial cancellation of the Will is an

act of mala fide on the part of the respondent and that a transfer deed dated 15.06.2012 pertaining to the property in dispute indicates that certain material facts have been concealed with an intention to commit fraud. The trial Court has taken into consideration all the facts and circumstances and has dismissed the application on the ground that the application has been filed at a belated stage after cross-examination of the landlord-respondent and that the facts sought to be incorporated in the pleadings were never suggested to the landlord in cross-examination and that the circumstances have been put to the landlord in the cross-examination.

Perusal of the record indicates that the amendment of the written statement is neither required for the fair decision of the ejectment application nor the pleading which are sought to be incorporated are relevant in any manner for the adjudication of the personal necessity of the landlord-respondent. Besides this, the plea, which is sought to be incorporated has already been put in the cross-examination of the landlord for appreciation at the time of final arguments.

No ground is made out for allowing the amendment of the written statement after the commencement of the proceedings. Without prejudice to the rights of the petitioner to raise all the pleas on the basis of evidence at the time of final argument, to defeat the right of the landlord-respondent, the revision petition is dismissed.

(M.M.S. BEDI)
JUDGE

July 28, 2015
harsha