

CR No.5651 of 2015 (O&M)

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

CR No.5651 of 2015 (O&M)

Date of Decision: December 15, 2015

Dinesh Kumar Sharma

...Petitioner

Versus

Ashok Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Ajay Jain, Advocate
for the petitioner.

Mr. M.K. Mittal, Advocate
for respondent No.1.

AUGUSTINE GEORGE MASI, J. (Oral):

Challenge in this revision is to the order dated 09.07.2015 passed by the Rent Controller, Rewari, whereby, an application moved under Order 14 Rule 5 read with Section 151 CPC by the petitioner who is respondent No.2 in the eviction petition, for amendment of issue No. 6 which was "Whether there is no relationship of landlord and tenant between petitioner and respondent No.1?OPR" and to reframe the same as "Whether there is relationship of landlord and tenant between petitioner and respondent No.1?OPP".

Although the prayer of the applicant was partly accepted, however, it has been reframed as follows:-

“6. Whether the respondent No.2 is direct tenant under the petitioner?OPR”

Learned counsel for the petitioner asserts that the onus to prove the said issue as has been put on respondent No.2 who is petitioner herein, should have been on the landlord-respondent No.1 herein, instead of the petitioner.

This assertion of the learned counsel for the petitioner cannot be accepted in the light of the specific stand taken by him in the written statement, in para 1 on merits, where it has been asserted that respondent No.2-Dinesh Kumar Sharma (petitioner herein) is continuing as tenant in the shop in dispute, under the petitioner and his father Kailash Chand Sharma was not the tenant. This was in response to the assertion in the ejectment petition, para 1 thereof, where landlord-respondent No.1 herein had stated that Kailash Chand Sharma, father of the petitioner who is respondent No.1 therein, is a statutory tenant of the shop.

Issue No.6 as framed vide impugned order dated 09.07.2015 cannot be said to be not as per the pleadings or not in accordance with law.

Finding no merit in the present petition, the same stands dismissed.

December 15, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**