

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

DATE OF DECISION: OCTOBER 08, 2015

State Bank of Bikaner & Jaipur, Chandigarh

.....Petitioner

VERSUS

Vineet Batra and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Present: Mr. Harish Chander Gupta, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 19.09.2015 passed by the Rent Controller, Chandigarh, vide which an application moved by the petitioner-tenant under Order 6 Rule 17 C.P.C. for amendment of the written statement by inserting a para that the petitioner therein and respondent No.1 herein) has no right to file the petition without the consent of respondent Nos.2 to 8 as these respondents have a major share in the property i.e. 75% in the SCO in question, who have not given any consent to file the eviction petition against the respondent-Bank (petitioner herein) and are strongly opposing the petition filed by respondent No.1, Vineet Batra, a co-owner and to intend to continue with the tenancy, has been dismissed.

amendment to the written statement can be permitted by the Court at any stage of the case. He contends that the factual assertions as have been made, which are being sought to be incorporated/inserted in the written statement, came to the knowledge of the petitioner on an application filed on 11.08.2015 by respondent Nos.2 to 8 wherein they, being co-owners, are intending to continue with the tenancy with the Bank, which is a duly registered lease deed and is going to expire on 31.01.2018. He, therefore, contends that the reasons assigned for not accepting the application of the petitioner pertaining to a fact which is much prior to the said date and could not have been taken into consideration by the learned Rent Controller. He, thus, contends that the present petition be allowed by setting-aside the impugned order dated 19.09.2015 passed by the Rent Controller, Chandigarh.

3. This contention of learned counsel for the petitioner cannot be accepted as it is an admitted position that an application was moved on 30.10.2013 by respondent Nos.2 to 8 for impleading themselves as party to the petition, reply to which was filed on 23.04.2014 by the petitioner in the rent eviction petition (respondent No.1 herein). It is asserted that no notice was issued to the bank-tenant. The said application was decided on 07.08.2014. This order was challenged by the petitioner-Vineet Batra (respondent No.1 herein) before this Court, which was disposed of and the amended title was accordingly filed on 17.03.2015, whereby respondent Nos.2 to 8 were impleaded as proforma respondents. Additional issues were framed on the basis of an application moved, which was allowed on 22.04.2015. Proforma respondent Nos.2 to 8 were proceeded against exparte on the said date as none had appeared on their behalf. Thereafter on

10.07.2015, the petitioner-Bank closed its evidence vide separate statement. On that very day, Vineet Batra (respondent No.1 herein), closed his rebuttal evidence before the Rent Controller and the case was fixed for arguments. Thereafter the case has been adjourned on various occasions for arguments till the application is alleged to have been moved by respondent Nos.2 to 8 on 11.08.2015 (Annexure P-2), wherein they have asserted that they are interested in continuing with the lease deed, which is a registered one and going to expire on 31.01.2018.

4. It is apparent that the petitioner was well aware of the fact that proforma respondent Nos.2 to 8 were the co-owners of the property as is apparent from the application, which has been moved by them under Order 1 Rule 10 C.P.C., which has been produced by the counsel in the Court and has been perused by me. He, at this stage, admits that the Bank has taken this plea in the written statement that apart from Vineet Batra, there are other co-owners of the property, therefore, it was all the more reason, that this plea, which has been sought to be inserted in the written statement by way of amendment, could have been taken at the very outset by the petitioner-Bank. Nothing stopped the petitioner from taking such a plea with regard to the consent of other co-owners when there was no such plea taken in the eviction petition that he had filed the same with the consent of the other co-owners or he had the authority to file the petition on their behalf as well. This application, which is now sought to be filed under Order 6 Rule 17 CPC for amendment of the written statement, appears to be filed with an intention to delay the proceedings pending before the Rent Controller.

5. The learned Rent Controller has, in para 7 of the impugned

order, held as follows:-

“Present application is moved by the respondents at the stage, when they have already closed their evidence and case is fixed for arguments and last opportunity was granted to the respondents to argue their case. Hence, prima-facie, the purpose of this application to linger on the case is evident. This is not a stage, from where respondents can go back to the stage of written statement and to plead this ground. Hence, despite knowledge of this fact, respondents closed their evidence on 10.07.2015. No justification is made out by the respondents, by relying upon which the application can be allowed. Accordingly, same is dismissed with costs of Rs.400/- in legal aid.”

6. The reasons assigned by the learned Rent Controller in the impugned order dated 19.09.2015, in my considered opinion, are justified and based upon proper appreciation of the pleadings, facts and circumstances of the case, which do not call for any interference by this Court.

7. In view of the above, the present revision petition stands dismissed.

October 08, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE