

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

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Date of Decision:16.11.2015

1. Civil Revision No.7361 of 2015 (O&M)

Parmeshwari Devi & Ors.

....Petitioners

Versus

Surinder Singh & Ors.

.....respondent

2. Civil Revision No.7590 of 2015 (O&M)

Davinder Kumar Chawla

....Petitioner

Versus

Surinder Singh & Ors.

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

1.Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3.Whether the judgment should be reported in the Digest?

Present: Mr. Vikas Mohan Gupta, Advocate, for the petitioner

ARUN PALLI, J.(ORAL)

This order shall dispose of CR Nos. 7361 and 7590, both of 2015, as identical questions of law and facts are involved.

Vide order being assailed, dated 25.09.2015, rendered by the Rent Controller, Chandigarh, petitioners-respondents No.1 and 2 (landlord), have since been directed, in terms of Order 1 Rule 10(4) of the Code of Civil Procedure (hereinafter referred to as 'C.P.C'), to file the amended eviction petition. Originally, a petition under Section 13-B of the East Punjab

Urban Rent Restriction Act, 1949 was filed by the landlord (respondents No. 1 and 2) against Vinod Chawla and Sandesh Raj i.e. respondents No. 3 and 4 and an application moved by respondents No.3 and 4 seeking leave to contest the proceedings, had since been dismissed, being barred by time, vide order dated 05.09.2011, which had even attained finality upto the Hon'ble Supreme Court. However, Davinder Singh Chawla i.e. Respondent No.5 and petitioner in C.R. No. 7590 of 2015, was also arrayed as party to the eviction petition, pursuant to the order dated 30.10.2012 (Annexure P-3), passed by this Court. Subsequently, even the petitioners, vide order dated 20.11.2014, were arrayed as party to the petition. Amended title was placed on record and notice to the newly arrayed respondents was issued as also to respondent No.5, but in an application moved by the petitioners, seeking leave to contest the proceedings, it was maintained, inter alia, that the landlord (respondents No.1 and 2) in an eviction petition filed by them had only sought ejectment of respondents No. 3 and 4, and nothing was made clear as to why the petitioners were arrayed as party. Likewise, it was not specified as to what relief was being claimed against them. It was in these circumstances and in reference to the provisions of Order 1 Rule 10 C.P.C, the Rent Controller directed respondents No. 1 and 2 to file the amended petition against the petitioners, as also respondent No.5. The reasons assigned in support of the order read as thus:-

"6. Specific plea was taken by impleaded respondent No.3 to No.7 in their leave to defend that the copy of petition received by them along with the summons was only against

respondent No.1 and No.2. That in the said petition, petitioners have sought eviction under Section 13-B of the Act only of respondents No.1 and 2. That nothing is made clear from said petition that why respondents, specifically respondent No.4 to No.7 were arrayed as party to the petition. That petitioners, after impleading respondent No.3 to No.7 have only filed an amended memo of parties and no averments, status of respondent No.3 to No.7 or relief claimed against respondent No.3 to No.7 is got amended in the petition. That moreover, addresses of respondent No.4 to No.7 have been wrongly mentioned. Despite this plea of newly added respondents, petitioners have not amended their petition and raised any claim qua respondent No.3 to No.7. Hence, as in the petition, neither the petitioners have mentioned the status of respondent No.3 to No.7 nor pleaded any relief or eviction of respondent No.3 to No.7, so there will be no useful purpose of applying judicial mind upon the leave to defend filed by respondent No.3 to No.7, because no relief qua respondent No.3 to No.7 is sought by the petitioners in their petition.

7. Accordingly, in compliance of provisions of Order 1 Rule 10(4) CPC, 1908, petitioners are hereby directed to file their amended petition against respondent No.3 to No.7 and to specify that whether respondent No.3 to No.7 are tenants in the demised premises and whether their eviction is sought by petitioners, vide this petition.

8. Now to come up on 06.11.2015 for filing amended petition against respondent No.3 to respondent No.7 by the petitioners".

Concededly, the petitioners were arrayed as party to the eviction petition vide order dated 20.11.2014, however, the consequential and necessary amendment in the eviction petition was not carried out. As pointed out by the petitioners themselves, nothing was specified in the eviction petition as to what relief was being claimed against them by the respondents-landlord. It would be apposite at this juncture to refer to the provisions of Order 1 Rule 10(4) of C.P.C, which read as thus:-

***“Where defendant added, plaint to be amended—
Where a defendant is added, the plaint shall, unless the court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the court thinks fit, on the original defendant.”***

Ex-facie, whenever a person is arrayed as party-defendant to the proceedings, perforce plaintiff is required to amend the plaint, as may be necessary, unless the Court directs otherwise. Meaning thereby, the provision casts an obligation upon the plaintiff to carry out the consequential amendment to an extent it is necessary and called for. Vide order being assailed, Rent Controller directed respondents No. 1 and 2 to file amended petition in sync with the afore-reproduced provision so that the matter could be proceeded further. Concededly, the Rent Controller had not directed the landlord otherwise i.e. not to file the amended petition. Thus, landlord was required to file the amended petition and

Rent Controller merely directed them to meet their statutory obligations, something, which the Court could always take cognizance of even suo moto. Even otherwise, Rent Controller is a persona designata and, is, thus, free to evolve its own procedure to proceed with the matter. Petitioners suffered no prejudice.

The petition appears to be speculative in nature and seems to have been filed only with a purpose to delay and derail the proceedings. That being so no interference is warranted in exercise of revisional jurisdiction under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949.

The petitions being devoid of merit are dismissed.

November 16, 2015
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(ARUN PALLI)
JUDGE