

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

CR No.238 of 2013O&M)

Decided on. 16.11.2016.

Naveen

.....Petitioner

Versus

Tara Wati

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Pritam Singh Saini, Advocate
with Ms. Monika Arora, Advocate
for the petitioner.

Mr. Parminder Singh-I, Advocate,
for the respondent.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 26.11.2012, passed by the learned Additional Civil Judge (Sr. Division), Bahadurgarh, whereby the application moved by the petitioner-plaintiff for amendment of the plaint has been dismissed.

2. I have heard Mr. Pritam Singh Saini Advocate and Ms. Monika Arora, Advocate, learned counsel for the petitioner, Mr. Parminder Singh-I, Advocate, learned counsel for the respondent and have carefully gone through the paper book.

3. Learned counsel for the petitioner contended that the petitioner/plaintiff has filed a suit for permanent injunction restraining the defendant from dispossessing the plaintiff from the demised

premises forcibly and illegally and also from demolishing the premises in dispute. He contended that due to some typographical mistake in para no.2 of the plaint, it was inadvertently pleaded that the rent of room was agreed between the father of the defendant and plaintiff. Now, by way of amendment, the plaintiff wants to mention that the rate of rent of the room was agreed between the defendant and the plaintiff. He contended that this amendment is not going to change the nature of the suit and suit is at the stage of the plaintiff's evidence i.e. the initial stage.

4. On the other hand, learned counsel for the respondent-defendant contended that the present application has been moved when the plea was raised in the written statement that the defendant is an old lady of about 85 years of age, then the plaintiff became conscious that the plea of the settlement of rent with her father may not be believable. Thus, he contended that the present application is not *bona fide* and has been rightly dismissed by the learned trial Court.

5. I have duly considered the aforesaid contentions.

6. Plaintiff has filed the suit for permanent injunction restraining the defendant from dispossessing him from the demised premises forcibly and illegally alleging himself to be a tenant in the demised premises under defendant. So, the rate of rent is not a matter in issue to be decided in the present suit. The learned trial Court is only to determine on appreciation of evidence as to in which capacity the plaintiff is in possession of the demised premises.

7. Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short CPC) provides that all such amendments shall be made as may be

necessary for the purpose of determining the real questions in controversy between the parties. Thus, admittedly in the present suit, the rate of rent is not the question in controversy between the parties. So, the amendment sought by the petitioner is not at all required to determine the real question in controversy in the present case. Thus, I do not find any illegality in the impugned order passed by the learned trial Court.

8. Consequently, the impugned order does not suffer from any illegality. Therefore, it does not call for any interference by this Court.

9. Thus, the present revision petition having no merits, is hereby dismissed.

November 16, 2016
S.khan

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No