

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

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Civil Revision No.4786 of 2013 (O&M)
Date of Decision: April 23, 2016

Kashmir Kaur and others

...Petitioners

Versus

Smt. Sunita Rani and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.S. Bhatia, Advocate
for the petitioners.

Ms. Baljeet K. Bhullar, Advocate
for respondent No.1.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 19.12.2012, whereby the application for amendment of the written statement preferred by the petitioners prior to the framing of the issues, has been declined on the ground that the documents on which reliance is being sought to be made now, are not genuine documents and that the admissions made are being sought to be now withdrawn.

2. Counsel for the petitioners contends that the amendment to the pleadings is to be liberally permitted, especially if it is done at the initial stage of the trial, although the provisions mention that it can be done at any stage of the trial. He contends that the observations of the Rent Controller, Chandigarh, dated 19.12.2012, in the impugned order with regard to the documents being not genuine, cannot be accepted at this stage as there is no evidence led by the parties and it is a matter of the evidence which has to be led which would determine that whether the rent agreement (Annexure R-2) which is being sought to be projected is a genuine one or

not. Mere denial on the part of the respondent-landlord would not be enough to come to a conclusion that it is not a genuine document. He contends that no attempt is being made to wriggle out of the admissions with regard to the respondent being the landlord, what has been asserted is that two rent agreements were entered into between the parties on 29.12.2004 out of which one is which has been produced by the petitioners i.e. Annexure R-4 and the other is Annexure R-2. He contends that the impugned order, thus, cannot sustain.

3. On the other hand, counsel for the respondent-landlord asserts that it is a mere delay which is being sought to be created as a ground for stopping the process of eviction so that the trial cannot conclude at an early date that the amendment is being sought. She further contends that this was never the stand taken by the petitioners in the initial written statement which has been filed. Now the petitioners are seeking to change the stand altogether. She asserts that the rent agreement (Annexure R-2) has never been executed by the husband of respondent No.1. It is, thus, not a genuine agreement. Apart from that, she asserts that prejudice would be caused to the respondent-landlord in case the amendment is permitted at this stage when the replication has also been filed by her. She contends that the impugned order being in accordance with law, do not call for any interference by this Court.

4. I have considered the submissions made by learned counsel for the parties and with their assistance, have gone through the impugned order.

5. Counsel for the parties could not dispute the fact that after the filing of the replication, the amendment to the written statement is being sought by the petitioners. The zimni orders, which have been placed on

record, indicate that the application for amendment to the written statement had been filed by the petitioners prior to framing of the issues. The application, thus, for amendment of the written statement has been filed at the initial stage of the trial and it cannot be said that efforts have been made by the petitioners to delay the proceedings before the Rent Controller.

6. As regards Annexure R-2, the rent agreement, which is being sought to be taken as a plea as an additional agreement which was executed between the parties on 29.12.2004, the execution of the said document is being denied by the respondent-landlord to have been executed by her husband Naresh Kumar. The genuineness or otherwise of the said document is a matter of evidence to be proved before the Court and, therefore, it cannot be said that as to whether the said document is a genuine document or a forged one. The reasons, as have been assigned by the Rent Controller by its order dated 19.12.2012, thus, cannot be accepted. The impugned order, in the considered opinion of this Court, being not in accordance with law, cannot sustain and is hereby set aside.

7. In view of the above, the application for amendment to the written statement as filed by the petitioners, stands allowed.

8. The Rent Controller shall now proceed to frame fresh issues taking into consideration the amended written statement of the petitioners with liberty to the respondent-landlord to file replication/rejoinder, if any, to the amended written statement.

April 23, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE