

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CR No. 4877 of 2016 (O&M)
Date of Decision : 02.08.2016

Smt. Naresh KumariPetitioner

Versus

Gurudwara Guru Nanak Satsang Sabha (Regd.)Respondent

2. CR No. 4878 of 2016 (O&M)

Mohan SinghPetitioner

Versus

Gurudwara Guru Nanak Satsang Sabha (Regd.)Respondent

3. CR No. 4879 of 2016 (O&M)

Sanjiv Kumar and othersPetitioners

Versus

Gurudwara Guru Nanak Satsang Sabha (Regd.)Respondent

4. CR No. 4880 of 2016 (O&M)

Rajiv Madan and anotherPetitioners

Versus

Gurudwara Guru Nanak Satsang Sabha (Regd.)Respondent

5. CR No. 4881 of 2016 (O&M)

Gopal Krishan VermaPetitioner

Versus

Gurudwara Guru Nanak Satsang Sabha (Regd.)Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

Surinder Gupta, J.

The above captioned revision petitions have been taken up
together as the matter involved therein is similar.

2. For the sake of convenience, the facts are being extracted from CR No. 4877 of 2016.

3. The petitioner (revision petitioner) has challenged the order passed by Rent Controller, Ludhiana dated 05.05.2016, dismissing her application seeking amendment of written statement to incorporate two more pleas in the preliminary objections as follows:-

“3. That the respondent wants to add the following paras in preliminary objections as paras no. 5 & 6 after the end of para no. 4:-

(a) “5. That the petitioner has no locus standi to file the present petition. The petitioner has no right or authority to file the present petition. Hence the petition is liable to be dismissed.

6. That the petition of the petitioner is totally false and frivolous. No ground is made out for the ejectment of the respondent from the demised premises. The alleged ground of personal necessity is not made out. The petitioner does not require the shop in question for its own use and occupation. The need of government dispensary is not the need of the petitioner. The alleged need of the petitioner is just a wish and will. Hence the petition of the petitioner being false and frivolous is liable to be dismissed.”

3. Learned counsel for the petitioner submits that the case is at the stage of evidence of revision petitioner/tenant and the amendments which are quite formal and, if allowed, will cause no prejudice to the respondent-

landlord. The Rent Controller has dismissed the application on the ground that the petitioner wants to delay the disposal of ejectment petition, a reason not made out as the case is still at the stage of recording evidence of parties.

4. I have given careful thought to submissions of learned counsel for the petitioner and perused the paper-book with his assistance.

5. The petitioner wants to add para 5 in the preliminary objections to make out that respondent has no right or authority to file present ejectment petition. While raising this plea, the revision petitioner appears to have not gone through the plea raised in reply to the ejectment petition, wherein she has pleaded in para 2, which reads as follows:-

“2On 03.06.2010 a fresh rent note was executed between the petitioner and respondent and the rate of rent was fixed as ₹800/- per month and presently the rate of rent is ₹880/- per month and same has been paid upto 01.01.2015, but thereafter the petitioner flatly refused to receive the rent from the respondent despite the repeated requests and demands of the respondent and the respondent is ready to pay the arrears of rent @ ₹880/- per month. The respondent was allowed to ply shop of confectionary. The agreement was duly signed between the then President and respondent and other shopkeepers, and terms and conditions were settled between the parties.”

6. Learned counsel for the petitioner could not make out as to how amendments sought to be added by way of para 5 of preliminary objections is relevant or material for the just decision of the case. The petitioner is admitting relationship of landlord and tenant with the respondent-Gurudwara Guru Nanak Satsang Sabha, as such amendment sought vide para 5, as quoted above, is frivolous and the Rent Controller has committed no error

while declining the same.

7. The second amendment sought to be added by the petitioner by adding para 6 to the preliminary objections is to challenge the need of demised premises projected by the respondent alleging that the same is not required for personal *bona fide* necessity of landlord. The respondent has pleaded this ground in para 3(b) of the ejectment petition which has already been elaborately replied by the revision-petitioner in written reply which run into more than 2 ½ pages.

8. Learned counsel for the petitioner could not make out any sense for revision-petitioner to plead in preliminary objections that the ground of personal necessity raised by the respondent is not made out, when elaborate plea has been taken in reply to para 3(b) of petition.

9. The amendment could certainly be allowed if the same is required for just decision of the case on merit. The revision-petitioner mentioned in the application that when he changed the counsel he was apprised that some material facts were not pleaded in reply. The facts sought to be incorporated in the reply by adding paras 5 and 6 of the preliminary objections as discussed above, cannot be termed as material facts or will incorporate anything which have already not been stated in the reply.

10. Consequently, the above captioned revision petitions have no merit and the same are dismissed.

Copy of this order be placed on the files of other connected matters.

August 02, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No