

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

121

Civil Revision No.5640 of 2016

Date of Decision: September 01, 2016

Manoj Kumar

...Petitioner

Versus

Sarabjit Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Manvinder Singh Dalal, Advocate
for the petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

Challenge in this petition is to the order dated 29.07.2016 passed by the Rent Controller, Ludhiana, whereby the application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of the written statement and permission to file counter claim, has been declined.

2. The amendment which was being sought by the petitioner in the application was to put forth a declaration that the sale deed bearing Wasika No.5654 dated 26.06.2007 executed in favour of the respondent-landlady is null and void and the alleged rent note dated 02.02.2010 on the basis of which she asserted herself to be the landlady is a forged and fabricated one. Injunction against the petitioner from dispossessing the counter claimants i.e. the petitioner herein from the suit property was also sought.

3. It is the contention of learned counsel for the petitioner that the sale deed on the basis of which the claim of ownership has been made by the respondent-landlady is a subject matter of an FIR which has been registered against her. He, therefore, contends that this casts doubt on the

ownership of the respondent of the demised premises. His further assertion is that the rent note although was pleaded in the eviction petition but the said stand could not be taken by the petitioner earlier and which is now being sought to be taken in the light of the registration of the FIR against the respondent-landlady. Assertion has also been made that merely because the case is listed for the evidence of the petitioner and three witnesses have been examined by him, cannot be a ground for non-acceptance of the application for amendment as there is no such fetter under the statute.

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

5. Coming first to the plea which is being sought to be taken with regard to the rent note dated 02.02.2010 which is now asserted to be a forged and fabricated document, cannot be permitted as an amendment to the pleadings, especially when it is not in dispute that the said rent note was a part of the eviction petition so pleaded to be the basis for the relationship of landlord and tenant. The petitioner could have, at the very initial stage, taken such a plea which has not been done.

6. As regards the sale deed bearing Wasika No.5654 dated 26.06.2007 is concerned, validity whereof is disputed by the petitioner by asserting it to be null and void and for that, the primary basis being the registration of an FIR on the basis of an application moved by the petitioner in the year 2011 against the respondent which has resulted in registration of the FIR in the year 2012, again cannot be accepted in the light of the fact that the petition for eviction was filed in the year 2010 and

the complaint against the respondent-landlady that the sale deed which is of the year 2007 has been filed in the year 2011 which has resulted in registration of the FIR in the year 2012, is a clear afterthought of the petitioner which is intentionally done with a motive to delay the proceedings. The said stand with regard to the sale deed being not *bona fide* rather with a *mala fide* intention as in the initial written statement which has been filed, the same was not the plea which cannot be permitted to be raked up at this belated stage, especially when the evidence of the respondent-landlady stands concluded and the petitioner has also examined three witnesses. The intention of moving the present amendment application at this belated stage is only to delay the proceedings before the Rent Controller as both the pleas i.e. the sale deed and the rent note, could have been taken by the petitioner at initial stage when the written statement was filed and in any case, with regard to the sale deed dated 26.06.2007 at least in the year 2011 when he had filed a complaint against the respondent-landlady, he could have taken steps to amend the written statement. The intention of the petitioner has rightly been understood by the Rent Controller to delay the proceedings. The pleas, as has been raised by the counsel for the petitioner, thus, cannot be accepted and the present revision petition being devoid of merit deserves dismissal.

7. In view of the above, the impugned order dated 29.07.2016 passed by the Rent Controller, Ludhiana, dismissing the application moved under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of the written statement and for permission to file the counter claim is upheld.

8. The revision petition stands dismissed with ₹10,000/- as costs to be deposited by the petitioner with the High Court Legal Services Authority within a period of two weeks, failing which the Secretary of the Legal Services Authority would move an application for initiating further action against the petitioner.

September 01, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No