

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 6347 of 2016 (O&M)

Date of Decision : 22.10.2016

Ayodhaya Parshad (since deceased) through his LR Rakesh Kumar
....Petitioner

Versus

Smt. Akki Bai Oswal and others
....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Santosh Sharma, Advocate
for the petitioner.

Surinder Gupta, J.

This is revision petition against order dated 05.02.2016, passed by learned Rent Controller, Ludhiana, whereby application filed by revision-petitioner seeking amendment of written reply was dismissed.

2. Respondents-landlords have filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of revision-petitioner from demised shop on the ground of personal *bona fide* necessity. In reply, the relationship of landlord and tenant was admitted by revision-petitioner and he alleged that he is tenant under respondents-landlords for more than three decades. Rent as assessed by learned Rent Controller was also tendered. Vide application seeking amendment, revision-petitioner wanted to introduce two paragraphs in the preliminary objections, which are as follows:-

“4. *That the land in dispute falls in the Industrial Area-A, Ludhiana. The industrial plots were allotted by Punjab Small Scale Industries & Export Corporation. The allotment was solely for the purpose of industries and no other activity can be done in the industrial plots. The*

petitioner has filed the present petition on the ground of personal necessity for opening a school in the industrial plot and hence the need of the petitioner is not bona fide. It is only the wish and will of the petitioners to get the property vacated.

5. *That the petitioners have no locus standi to file the present petition. The petitioners were not the original trustees at the time of filing of the present petition and hence they are not landlords/owners at the time of filing of the present petition. So the petition is not filed by competent person. The trust deed was executed on 09.06.2008, whereas the petition was filed in the year 2007.”*

3. Learned counsel for the revision-petitioner has argued that plot in question was allotted for factory where respondents could not open a school, as such, amendment to this effect is required. It was at later stage that revision-petitioner came to know that respondents are not landlords, which necessitated the addition of para 5 in preliminary objections.

4. The ejectment petition is pending for the last eight years. The revision-petitioner had admitted the relationship of landlord and tenant between the parties and also tendered the rent. At this stage, by way of amendment, he cannot be allowed to withdraw his plea already taken that respondents are his landlords. The point that respondents cannot utilize the demised premises for opening a school can be argued before the Rent Controller while addressing arguments on merits on personal *bona fide* necessity of respondents. It is for respondents to prove that the demised

premises is required by them and can be utilized for the purpose for which they require it.

5. On perusal of impugned order and nature of amendment sought by revision-petitioner, I concur with learned Rent Controller that attempt has been made by revision-petitioner only to delay further proceedings in the ejectment petition, which is already more than eight years old.

6. I find no infirmity in the impugned order passed by Rent Controller calling for any interference in this revision petition, which has no merit.

7. Dismissed.

8. It is, however, made clear that nothing observed herein shall have bearing on decision of ejectment petition on merit.

October 22, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No