

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 7745 of 2016

Date of Decision : 17.11.2016

Harish Batra

...Petitioner

Versus

Dev Krishan

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Surinder Gupta, J. (Oral)

This is revision-petition against order dated 21.09.2016 passed by Rent Controller, Kapurthala, dismissing the application of revision-petitioner seeking amendment of written statement.

2. Landlord-respondent is seeking ejectment of revision-petitioner from the demised premises which comprised of a shop in property bearing Municipal No. B-V/2/1 situated at *Kotwali Chowk*, Amritsar Road, Kapurthala, on the ground that he alongwith his son Vinay Garg are practicing as advocates at District Courts, Kapurthala and have joint office on the ground floor of the house. Landlord-respondent has been in practice as advocate since 1960 and his son since 1985. The demised shop is required to create additional accommodation as the residential accommodation and office space available with the landlord-respondent and his family members is insufficient. Two grandsons of landlord-respondent have also completed their Degree of Bachelor of Law from Panjab University, Chandigarh and have joined the legal profession. They have become members of District Bar Association, Kapurthala and started practice as advocates there. Both are financially dependent on landlord-

respondent and their parents. The entire family is living on first floor, which is having three bedrooms for their residence. Out of four shops on the ground floor, one is on rent with revision-petition, second shop is on rent with Pardeep Kalia son of Bua Dass while third shop is on rent with ICICI Bank and an ATM machine is installed there. Landlord-respondent is in possession of empty space of nearly 10 ft. x 10 ft. at its back while fourth shop is being used for car garage. Describing the need to extend office space and also to accommodate his grandsons ejectment of the shop in dispute was sought.

3. Revision-petitioner contested the claim of landlord-respondent in his detailed written reply and denied all the averments. By way of amendment he wants to plead that landlord-respondent is owner of residential house situated in Atma Singh, Urban Estate, Kapurthala and has shifted there. First floor of the building in question is now lying vacant and can be used to set up the office. Consequently, the shop on ground floor, which was being used for parking the cars, has also become vacant.

4. Landlord-respondent has denied the plea of revision-petition *inter alia* pleading that they have not shifted in Atma Singh, Urban Estate, Kapurthala. They are living in this house due to convenience, security, bondage, warmth, affection and nearness of friends circle.

5. Learned counsel for revision-petitioner has argued that facts sought to be added are material to prove that the need projected by landlord-respondent has subsided during pendency of petition. Bringing of the facts sought to be added by way of amendment will not prejudicially affect the landlord-respondent.

6. Landlord-respondent has specifically come up with plea that he

has not shifted to Atma Singh, Urban Estate, Kapurthala. Even otherwise, the revision-petitioner is contesting the plea of landlord-respondent that he requires the demised premises for his personal *bona fide* necessity, the amendment sought to be added in written reply is neither material nor required for just decision of the ejectment petition. Revision-petitioner can lead evidence even without seeking amendment to prove that the landlord-respondent has shifted to Atma Singh, Urban Estate, Kapurthala and possess sufficient accommodation for requirement of space to set up office.

7. It is submitted that the case is still at the stage of evidence of landlord-respondent. The revision-petitioner is at liberty to enquire about the facts sought to be pleaded in cross-examination of landlord-respondent and his witnesses and make submission in this regard at the appropriate stage.

8. I find no reason to interfere with the order of learned Rent Controller declining the application. This revision petition has no merit and the same is dismissed. However, it is clarified that nothing observed in order under revision or this order shall have any bearing while deciding the petition of landlord-respondent on merits.

November 17, 2016

jk

**(SURINDER GUPTA)
JUDGE**

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No