

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

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1. Civil Revision No.7785 of 2014 (O&M)
Date of Decision: August 04, 2016

M/s Tara Chand Ram Kumar, Chandigarh and another
...Petitioners

Versus

Anguri Devi
...Respondent

2. Civil Revision No.7787 of 2014 (O&M)

M/s Tara Chand Ram Kumar, Chandigarh and another
...Petitioners

Versus

Anguri Devi
...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Arihant Jain, Advocate
for the petitioners.

Mr. Arun Jain, Senior Advocate
with Mr. Arjunvir Sharma, Advocate
for the applicant-respondent.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.4507-CII of 2016

In the light of the fact that the main case is listed for today, the
present application is rendered infructuous.

Disposed of accordingly.

CR Nos.7785 and 7787 of 2014

By this order, I propose to decide *Civil Revision Nos.7785 and
7787 of 2014 titled as M/s Tara Chand Ram Kumar, Chandigarh and
another Versus Anguri Devi* preferred by the petitioners, whereby they have
challenged the order dated 24.09.2014 by which the evidence of the
petitioners has been closed by order of the Court and the order dated

05.11.2014 by which the amendment to the written statement as sought, has been declined by the Rent Controller, Chandigarh.

2. It is the contention of learned counsel for the petitioners that in the impugned order dated 24.09.2014, it has been stated that seven effective opportunities including last opportunity and super last opportunity have been granted to the petitioners for concluding their evidence. However, he has referred to the zimni orders dated 25.08.2014, 06.09.2014, 08.09.2014, 15.09.2014 and the impugned order i.e. 24.09.2014, whereby the evidence has been closed and while referring to these zimni orders, he contends that except for one effective opportunity which has been granted to the petitioners and the two earlier opportunities which were granted prior thereto, no other opportunity has been granted and, therefore, the observation of the Rent Controller that there were seven effective opportunities, is incorrect. He further states that the petitioners require only one opportunity to lead and conclude their evidence. He states that the apprehension of the respondent-landlord that the petitioners are intending to delay the proceedings is totally misplaced. That apart, he contends that the reason for dismissal of the application for amendment to the written statement in the order dated 05.11.2014, primarily rests upon the ground that the evidence of the petitioners has been closed by order and, therefore, the same has weighed upon the Rent Controller that the petitioners are intending to delay the proceedings and that the application for amendment to the written statement has been declined by order dated 05.11.2014. He, thus, contends that even if the amendment to the written statement which is in the form of an explanation to the plea which has already been

taken in the written statement, if permitted, he would not insist upon framing of fresh issues on the basis of the said amendment and would be satisfied by the amendment to be taken as it is and would not further seek any adjournment or opportunity to lead any further additional evidence except the one opportunity as prayed for above. He, thus, contends that the present revision petitions may be allowed by setting aside the impugned orders.

3. On the other hand, learned senior counsel for the respondent, vehemently contends that in fact there are seven effective opportunities given to the petitioners and has rightly been recorded by the Rent Controller in its order dated 24.09.2014. Petitioners had been given one last opportunity earlier and thereafter a super last opportunity as well but still the petitioners intentionally had not produced their evidence and intend to delay the proceedings. Similar was the effort on the part of the petitioners by moving an application for amendment to the written statement at this belated stage when their evidence has been closed and that too by order. The intention is clear and specific, especially when it is an admitted position that the plea had been taken with regard to what is being sought to be amended by putting forth an explanation and in any case, the Rent Controller in the order dated 05.11.2014 has clearly permitted and left it open to the petitioner to lead his evidence on the primary plea which had already been taken in the written statement. He, thus, contends that no prejudice as such has been caused to the petitioner and the intention is to stall the proceedings. Prayer has, thus, been made for dismissal of the revision petitions by upholding the orders passed by learned

Rent Controller, Chandigarh.

4. I have considered the submissions made by learned counsel for the parties and with their able assistance, have gone through the impugned orders as also the pleadings.

5. Firstly dealing with the order dated 24.09.2014, although in the said order it has been stated that there are seven effective opportunities given to the petitioners but the perusal of the above referred to orders would show that there was indeed three effective opportunities which were granted to the petitioners in all. Counsel for the petitioners has stated that petitioners would be requiring only one effective opportunity to lead and conclude their evidence. The said statement takes care of the apprehension of the counsel for the respondent that the proceedings will be delayed. Accordingly by setting aside the order dated 24.09.2014 passed by the Rent Controller, Chandigarh, one effective opportunity is granted to the petitioners to lead and conclude their entire evidence on 16.08.2016 which is the date fixed before the Rent Controller, Chandigarh.

6. As regards the amendment to the written statement which was being sought by the petitioners and has been declined by the Rent Controller by order dated 05.11.2014, it is an admitted position that the primary plea has already been taken by the petitioners in the written statement and the amendment which is being sought, is explanatory in nature and, therefore, the said amendment would not be prejudicial to either of the parties, especially in the light of the facts that the counsel for the petitioners has stated that no fresh issue will be claimed by the petitioners to be framed on the basis of the said amendment nor would they require any

additional opportunity to lead evidence except for the one on 16.08.2016 as granted. Here again, the apprehension which the respondent's counsel had for delaying the proceedings, had been taken care of and, therefore, the order dated 05.11.2014 passed by the Rent Controller, Chandigarh, to the extent of disallowing the amendment to the written statement is set aside and the amendment is permitted to the written statement as prayed for. This would not entitle the petitioners for framing of an additional issue or claim another opportunity for leading additional evidence and for that reason the plea having already been taken, it would be open to the petitioners to lead their evidence to substantiate the amendment in the one opportunity which has been asked for by the counsel for the petitioners and granted by this Court for 16.08.2016 before the Rent Controller.

7. Respondent-landlord is granted an opportunity to file a replication, if need be, prior to 16.08.2016 with an advance copy to the counsel for the petitioners.

8. In view of the above and with the above observations, the revision petitions are allowed.

August 04, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE