

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.8194 of 2015

Date of Decision.11.01.2016

Ram Singh

.....Petitioner

Vs.

Surender Grover and others

.....Respondents

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The revision petition is against the order allowing the amendment to be brought in the written statement. The plaintiff is the petitioner. In a suit filed by the plaintiff for declaration that he is occupancy tenant, there had been an original written statement denying tenancy and now the petition for amendment was filed at the instance of the defendant to contend that the plaintiff was indeed tenant but he had paid rent till the year 2002. This, according to the plaintiff, constitutes a serious prejudice and inconsistent pleading which ought not to be permitted.

2. The defendant has certain privileges which the plaintiff does not have. One such is a right to take inconsistent pleas. An amendment which shall not be permitted shall be such as to cause a withdrawal of admission. A statement that the defendant was not a tenant is not an admission but on the other hand, it is an assertion which if the defendant

was himself prepared to withdraw to conform to what the plaintiff was contending that there was a tenancy, the withdrawal of present statement must be taken as constituting an admission of what the plaintiff also confirms and therefore, it cannot be taken as constituting a surprise or bringing about a plea which should not be permitted.

3. Amendment petition that seeks to bring to pleadings a matter of what the plaintiff himself affirms but the defendant would condition such an assertion with the amount as having been paid upto a particular date, the plaintiff must take the statement in pleading as it obtains and if he has any objection about the manner in which the allegations are made about the plaintiff's payment of rent he ought to be permitted to join issues by way of replication. I will not cause any intervention with the order already passed.

4. The impugned order is sustained and the amendment is permitted to be brought on record and the plaintiff will have a right of reply/rejoinder to the averments brought through the amended pleadings. The revision petition is dismissed with the above observations.

(K. KANNAN)
JUDGE

January 11, 2016
Pankaj*