

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

122/2

Civil Revision No.8508 of 2016 (O&M)

Date of Decision: December 16, 2016

Sudarshan Kumar

...Petitioner

Versus

Nand Kishore Mehra and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anil Chawla, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this petition is to the order dated 02.12.2016 passed by the Appellate Authority, Amritsar, whereby the application under Order XIV Rule 5 read with Section 151 CPC filed by the petitioner for framing an additional issue i.e. 'whether the ground of alleged bonafide need was legally available to the applicants landlords and the respondent could be evicted on such grounds?', has been rejected.

2. It is the contention of learned counsel for the petitioner that in the written statement which has been filed by the petitioner, it was specifically pleaded that the demised premises was an integral part of the residential building and as such the ground of alleged *bona fide* need is not maintainable. He contends that once a specific plea has been taken by the respondent and it arises because of the denial of the respondent-landlord, an issue was required to be framed specifically dealing with the said aspect and omission to do so entitles the petitioner to take such an objection and press his claim for framing the said issue. The order of dismissal of the application cannot be sustained.

3. I have heard the submissions made by the counsel for the petitioner and with his assistance, have gone through the pleadings as also the impugned order.

4. Issue No.2, as has been framed by the Rent Controller, deals with the *bona fide* necessity of the respondent-landlord which would cover the aspect as has been sought to be projected by framing of another issue as has been reproduced above. The said aspect having been duly considered by the Rent Controller and a judgment given thereon, the said issue which is being sought to be projected virtually mean re-framing of the issue, especially when issue No.2 would cover the said aspect and thus, is not necessary. The order as passed by the Appellate Authority being in consonance with the law, do not call for any interference by this Court.

5. The petition, therefore, stands dismissed.

6. Any observation made in the present order will not effect the merits of the case in any manner.

7. In the light of the dismissal of the petition, the application for stay i.e. CM No.25794-CII of 2016, stands disposed of as infructuous.

December 16, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No