

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

Civil Revision Nos.1172 of 2015 (O&M)

Tara Singh

... Petitioner

Versus

Manmohan Singh and another

... Respondents

Civil Revision Nos.6669 of 2015 (O&M)

Tara Singh

... Petitioner

Versus

Manmohan Singh and another

... Respondents

Decided on : 20.04.2017

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Paras Talwar, Advocate for the petitioner.

Mr. Deepak Thapar, Advocate for the respondents.

G.S. Sandhawal, J. (Oral)

The present order shall dispose of two revision petitions i.e.

Civil Revision Nos.1172 & 6669 of 2015.

Civil Revision No.1172 of 2015 has been filed by the petitioner-tenant against the order dated 16.01.2015 (Annexure P-1), whereby the application under Order 6 Rule 17 CPC for amendment of the ejectment petition was allowed. The impugned order reads as under:-

“Heard on an application under Order 6 Rule 17 CPC for amendment of the ejectment petition. In view of the facts mentioned in the application and in the interest of justice, the application under Order 6 Rule 17 CPC is allowed. Now amended petition be filed on 20.02.2015.”

While issuing notice of motion on 19.02.2015, this Court noticed that the said order was a non-speaking order and from the reading of

the said order it is not decipherable as to what was the amendment and whether the same was necessary for the effective adjudication of the controversy in question.

Mr. Thapar has submitted that the amendment was regarding the bonafide requirement and for eviction on personal necessity.

Needless to say that the Rent Controller was under a bounden duty to record reasons while allowing the application, so that this Court was able to appreciate whether the application was rightly allowed or dismissed. It is settled principle that reasons have to be recorded while passing a judicial order. Unfortunately, the Rent Controller has not done so, while passing the impugned order. Resultantly, the same has to be set aside. It is ordered accordingly. The Rent Controller shall decide the application afresh.

In **Civil Revision No.6669 of 2015**, the tenant is aggrieved against the order dated 07.07.2015 (Annexure P-1), whereby his defence was struck off on account of non-filing of the reply to the amended petition, in view of the above order passed, in spite of numerous opportunities have been given. The relevant part of the said order reads as under:-

“Today, reply to the amended petition has not been filed by the respondent. Adjournment has been prayed by the counsel for the respondent through application. From the perusal of file which shows that application U/o 6 Rule 17 CPC was filed by the learned predecessor court vide its order dated 16.1.2015 and since then respondent has availed 4 effective opportunities and its span more than 6 months in filing reply to amended petition even he has not

come to prepare today. Further extended adjournment for the same purpose for which more than 6 months period elapsed. This is an ejectment petition which has been filed by the petitioner on the ground of personal necessity. Accordingly, the right of the respondent for filing reply to amended petition is struck off. However, earlier reply is relevant as to amended petition only those facts has been averred or denied. On account of amendment made in the petition on the ground of personal necessity has been raised. The following additional issues are hereby made under:

4A) Whether the petition requires the demised premises for his personal and bonafide necessity? OPP

4B) Whether the respondent can be evicted from the demised premises on the ground of personal necessity? OPP

Now the case is adjourned to 1.10.2015 for evidence of the petitioners.”

Keeping in view the fact that the order dated 16.01.2015 itself has been set aside, the second order impugned dated 07.07.2015 has become meaningless, since the Rent Controller is to decide the issue afresh.

Accordingly, **Civil Revision No.6669 of 2015** is disposed of as having been rendered infructuous, whereas **Civil Revision No.1172 of 2015** is allowed.

The Rent Controller shall pass a fresh order in the application under Order 6 Rule 17 CPC by giving due reasons.

APRIL 20, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No