

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

**1. Civil Revision No.120 of 2017
Date of decision: 25.5.2017**

Dharamveer

...Petitioner

Versus

Balraj Singh and another

...Respondents

2. Civil Revision No.146 of 2017

Ranjit Singh

...Petitioner

Versus

Balraj Singh

...Respondent

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

Present: Mr. R.K.Arya, Advocate for the petitioner
(in both the petitions).

Mr. Karan Chaudhary, Advocate for respondent no.1
(in both the petitions).

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Revision Nos.120 and 146
2017 as common questions of fact and law are involved in both these
petitions.

The petitioner-tenant challenges the order dated 7.12.2016
(Annexure P/5) passed by the Rent Controller, Gurdaspur in both the
petitions under Article 227 of the Constitution of India whereby
applications for amendment of the written statements have been declined.

The reasons given by the Rent Controller, Gurdaspur is that the
plea has been taken that the petitioner is not the owner and the Irrigation
Department is the owner of the tenanted premises. It has been noticed by

the Rent Controller, Gurdaspur that the relationship of landlord and tenant between the parties has not been denied and issues have been framed and case was fixed for evidence of the landlord. However, due to the absence of copy of notice under the Public Premises Act, 1971 and lack of pleadings regarding ownership of the Irrigation Department, in the initial stand taken the amendment would amount to withdrawal of admission as well as the change the nature of the case. Therefore, applications have been dismissed.

Counsel for the petitioner/tenant has vehemently submitted that on account of show cause notice dated 9.12.2016(Annexure P/7) being received by the petitioner there was due diligence as such to file applications for amendment on the ground that they were being declared as unauthorised occupants of the land which was stated to be belonging to the Irrigation Department. Therefore, the amendment was imperative and should have been allowed in the interest of justice and the impugned orders were not justified.

Counsel for the respondent on the other hand submits that tenancy was never denied as such, therefore, issue before the Rent Controller, Gurdaspur was only that whether tenant can be evicted on the ground of bonafide requirement which was set up in the pleadings.

A perusal of the eviction petition would go on to show that it was pleaded one Mewa Singh, who had expired leaving behind his two sons namely Mohinder Singh and Surinder Singh, was the owner of the property. The property was inherited by the landlord after the death of Mohinder Singh and Surinder Singh and it has been leased out in the year 1988. The factum of relationship of landlord and tenant was not denied by the petitioners. In such circumstances, once there is relationship of landlord

and tenant which is not denied, the Rent Controller is only to adjudicate upon the issue whether the ground for eviction is justified or not and question of title is irrelevant. Even otherwise the proposed amendment would totally alter the stand taken by the tenant regarding relationship between the parties which is not permissible as per the principles laid down by the Apex Court in **Revajeetu Builders & Developers Vs. Narayanaswamy & sons and others** (2009) 10 SCC 84.

It is further pointed out that even the show cause notice is at a subsequent point of time after the proposal for amendment. Since the Rent Controller is only to decide the issue which is regarding eviction and is not to decide the question of title and in view of the fact that Section 2(c) of the East Punjab Urban Rent Restriction Act, 1949 provides that the person who is entitled to collect the rent is also a landlord, therefore, there is no ground made out to upset the orders dated 7.12.2016 passed by the Rent Controller, Gurdaspur.

Accordingly, both the revision petitions are dismissed.

May 25, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No