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

Civil Revision No.1226 of 2017

Date of decision: 20.03.2017

Mohinder Singh

...Petitioner

Versus

Mohinder Mohan

...Respondent

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

Present: Mr. Puneet Pali, Advocate for
Mr. Mohd. Salim, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present petition is directed against the order dated 18.1.2017(Annexure P/4) passed by the Appellate Authority, Sangrur whereby application for additional evidence has been dismissed. The petitioner-tenant wanted to examine the witnesses from the Municipal Council, Sangrur and Halqa Patwari which has been declined.

The reasoning which prevailed with the Appellate Authority, Sangrur was that in the application the plea taken was that the demised premises was not owned by the respondent-landlord which was in contradiction of the plea taken in the reply filed by the tenant wherein the factum of ownership and the relationship of landlord and tenant had not been denied. It was accordingly held that tenant was estopped from his own act and conduct and the application being misconceived and belated was accordingly dismissed.

A perusal of the paper book would go on to show that in the eviction petition filed by the respondent/landlord he claimed to be the

owner and the petitioner was stated to be a tenant at monthly rent of ₹ 600/- per month. The ground for eviction was bonafide requirement.

The plea taken in the defence was that the relationship of the landlord and tenant was admitted but ground of eviction for bonafide requirement was denied. The plea was also taken that the owner was in possession of two shops opposite Gurudwara Baba Namdev Ji, Kishanpura-Haripura Road, Sangrur in which he was running business of building material which he had concealed. During examination also tenant could not produce any document regarding the business of building material in the name of the landlord and nor had he produced any sale deed from Tehsil regarding ownership of the shops in Haripur.

A perusal of the application for additional evidence would go on to show that the tenant wants to examine more witnesses to prove his case that the ownership of the disputed shops is not proved and the witnesses could not be examined previously and therefore, it was necessary for the effective adjudication of the case.

The argument raised by the counsel for the petitioner that he sought to prove the fact of ownership of other shops which are in possession of the landlord is thus not justified. In the application, pleading itself is contrary to the argument raised. The additional evidence sought to be produced is only for the purpose to dispute the relationship of landlord and tenant which was in contradiction of the plea already taken in the main rent petition. It is settled principle that that the parties cannot wriggle out of the plea as such taking totally contrary stand and even otherwise evidence beyond pleadings cannot be taken into consideration.

In such circumstances, the Appellate Authority, Sangrur has rightly declined the application for additional evidence.

Accordingly, finding no merit in the present petition, the same is dismissed in limine.

March 20, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No