

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

Civil Misc. No.,3908-CII of 2017 in/and
Civil Revision No.1308 of 2017
Date of decision: 22.02.2017

Balbir Singh now deceased through his legal heirs

...Petitioners

Versus

Om Parkash

...Respondent

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

Present: Mr. Sandeep Singal, Advocate for the petitioner(s).

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.,3908-CII of 2017

Prayer made in the present Civil Misc. Application for granting exemption from filing certified copies of the impugned order of the Rent Controller as well as the annexures attached is allowed.

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.1308 of 2017

Challenge herein is to the order dated 23.1.2017 passed by the Rent Controller, Rohtak whereby application for amendment of the written statement of the tenant has been dismissed. The amendment sought was that the respondent/landlord was having ownership of the shop adjacent to the property in dispute which he had hidden from the Court.

The Rent Controller, Rohtak has held that as per the site plan provided with the plaint the details of the property had been given and no facts had been concealed. The landlord had not mentioned that he was the owner of any other shop but he had not misrepresented by denying any ownership as well. Resultantly it was noticed that the issues were framed

on 7.4.2016 after earlier amendment and the landlord had examined all his witnesses and closed his evidence on 4.11.2016. Even the present petitioner had examined all his witnesses and closed his evidence on 6.1.2017. The application for amendment was accordingly dismissed and case was adjourned for rebuttal evidence and arguments.

Counsel for the petitioner submits that on account of the fact that earlier ground was different and bonafide requirement was pleaded subsequently and father had been prosecuting on behalf of the petitioner, therefore, need for amendment has arisen. It is further submitted that liberal view has to be taken in case of amendment as long it does not change or alter the basic nature of the case.

A perusal of the application under Order 6 Rule 17 read with Section 151 CPC would go on to show that averment was made that there were other shops of the landlord which had been given on rent to one Naresh and there was property of Om Parkash on the western side and the northern side. The landlord had not filed any eviction petition against the said tenants and therefore, amendment of the written statement has been sought.

The mandatory ingredients of Section 13 (3)(a) (i) of the Haryana Urban Control of Rent & Eviction Act, 1973 which are to be pleaded are that the landlord is not occupying another building in the urban area concerned and he has not vacated such building without sufficient cause after the commencement of Act. It is thus apparent that an issue had been raised that mandatory ingredients had not been pleaded. However, nothing has been mentioned in the application that there was any such shop in possession of the landlord or that he had not vacated any such building.

In the absence of any such objection being taken, this Court is of the opinion that the amendment sought would not be necessary as such to decide the controversy in question. The ownership of other building in possession of the tenants as such would not be of any help to the tenant nor it would be necessary for the proper adjudication of the case.

Resultantly, there is no merit in the present revision petition and the same is dismissed in limine.

February 22, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No