

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

C.R. No. 1736 of 2017 (O & M)

Date of decision: 24.04.2017

Vrind Jain

....Petitioner(s)

Versus

Satinder Singh Chadha and another

...Respondent(s)

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

Present: Mr. Rakesh K. Kaundal, Advocate,
for the applicant-petitioner.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 8670-CII of 2017

Application for placing on record copy of order framing issues
as Annexure P-6 is allowed, subject to all just exceptions.

The same is taken on record.

C.R. No. 1736 of 2017

The challenge by the petitioner-tenant in the present revision
petition is to the order dated 18.02.2017 (Annexure P-3) whereby, the Rent
Controller, Chandigarh has denied the amendments sought to be made in the
written statement.

A perusal of the impugned order would go on to show that the
Rent Controller had examined in detail the amendments which were sought
to be made namely that one Amarjit Singh Sethi was the landlord of the
petitioner-tenant and he had some correspondence with him. It was noticed
that a plea had already been taken regarding this fact in the preliminary
objections of the written statement and, therefore, in view of the fact that the

pleadings were already there, it was held that it was not necessary as such to allow the amendment. Merely because some communication had been addressed by some person to M/s. Krishan Juneja and Company, demanding outstanding rent would not have necessarily to be pleaded which are matters of evidence as per settled principle.

Similarly, the Rent Controller went on to hold that the relationship of the landlord-tenant was to be of the said person, which ground had already been pleaded and further amendment as such was also liable to be allowed. The amendment sought on the ground of non-joinder of one M/s. Krishan Juneja and Company of being necessary and proper party was also rebutted on the ground that there was nothing to show that how they were necessary or even proper parties and request was disallowed as it had not been shown from the proposed amendment that they had purchased the property or became owners or were landlords to whom rent was being paid. Merely alleging that they were proper party would not as such permit the tenant to amend his written statement. It is also to be noticed that the issues were framed on 29.03.2016 and trial had commenced and thereafter, the proposed amendment is sought which is against the proviso to Order VI Rule 17 CPC. In the absence of any due diligence also, further amendments which have been sought regarding displaying of food at boards and the rent being reflected in the name of Satinder Singh Chadha (HUF) who is the alleged landlord and not in the individual capacity is also without any basis. A perusal of the issues framed on 29.03.2016 would go on to show that the Rent Controller is well justified that the issues covered all the facts which are now sought to be raised by virtue of amendment. The issues read as under:-

1. *Whether respondent is liable to be ejected on the ground of personal use and occupation by the petitioner, as prayed for? OPP*
2. *Whether the preset petition is bad for nonjoinder and misjoinder of necessary party? OPR*
3. *Whether the present petition has been filed with mala fide intention just to harass the respondent? OPR*
4. *Whether no cause of action has been arisen in favour of the petitioner? OPR*
5. *Relief.”*

The factum of any To-let boards or some other tenants being inducted would squarely be covered under Issue No. 3, the onus of which was upon the present petitioner as he had yet to start leading evidence and only the evidence of landlord was going on. Lastly, the name of the petitioner has not been spelled correctly was also repelled on the ground that even as per the earlier Vakalatnama, he had himself shown his name as Varind Jain and not Krishan Varind Jain and resultantly, finding has been recorded that it is only to delay the proceedings and the application was dismissed on the ground of being devoid of any merit.

Accordingly, finding no infirmity in the order impugned, the present revision petition is dismissed in limine.

24.04.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No