

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

**Civil Revision No.1780 of 2017
Decided on : 14.03.2017**

Rajinder Parshad

... Petitioner

Versus

Deepak Saini

... Respondent

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

Present : Mr. Rajinder Goyal, Advocate
for the petitioner.

G.S. Sandhawalia, J. (Oral)

The present revision petition has been filed by the petitioner-tenant under Article 227 of the Constitution of India against the order dated 18.02.2017 (Annexure P-10) passed by the Rent Controller, Chandigarh, whereby the application for rejection of the subsequent affidavit of the landlord has been dismissed.

The grouse of the petitioner-tenant was that once evidence had been closed as such and the case was fixed for the evidence of the tenant, the fresh affidavit could not have been submitted by the landlord, in view of the amendment allowed under Order 6 Rule 17 CPC, which was over and above the amendment allowed.

The said application has been opposed by the landlord on the ground that the second affidavit was filed as per the amended petition and the landlord has a right to file amended affidavit in consonance with the new amended petition. The tenant could not force the landlord to file affidavit as per his choice and once the amendment has been allowed, the additional facts also had to be brought on record.

The Court while rejecting the application has noticed that once an amendment application had been allowed and if a new affidavit is submitted, which is in accordance with the law, the same cannot be objected to. Liberty has also been given to the tenant that this is not a appropriate stage to raise this kind of plea, if the tenant has any grievance he can take a objection at the time of arguments. Resultantly, it had been directed that the evidence of the tenant should be concluded on the date fixed.

A perusal of the application under Order 6 Rule 17 CPC filed by the respondent-landlord would go on to show that apart from the mandatory ingredients, which were sought to be incorporated, some additional facts were also mentioned.

It is not disputed that on 12.08.2016 (Annexure P-3), the application for amendment was allowed, keeping in view the fact that there was a bonafide mistake as such and in spite of the fact that the trial had commenced, the order has become final *inter se* the parties.

In pursuance of the said, an affidavit has been filed bringing on record the evidence, which is to be in consonance with the pleadings and no fault as such can be found. Even otherwise, the Rent Controller has given the option to the petitioner-tenant that he can raise the objection as such at the relevant point of time. It is obvious that the said opportunity has been given, so that the counsels can point out at the appropriate stage, if the deposition of the affidavit is beyond the pleadings as such.

In such circumstances, the interest of the petitioner-tenant has been duly protected and there is no scope for interference in the impugned order dated 18.02.2017 (Annexure P-10). Accordingly, the present revision petition is dismissed in limine.

MARCH 14, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No