

116.

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

Civil Revision-2442-2017 (O&M)

Date of decision:05.04.2017

SURINDER GARG

... Petitioner

versus

JASDEEP SINGH

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rahul Garg, Advocate, and
for Mr. Sameer Sachdev, Advocate,
for the petitioner.

HARI PAL VERMA, J.

The petitioner-Surinder Garg, who is a tenant on the first floor of House No.3054, Sector 40-D, Chandigarh, has filed the present revision petition impugning the order dated 21.02.2017 (Annexure P-1) passed by learned Rent Controller, Chandigarh, whereby an application filed by the respondent-landlord under Order 6 Rule 17 read with Section 151 CPC, for amendment in the rent petition, was allowed.

Briefly stated, the respondent-landlord had filed a petition under Section 13-B of East Punjab Urban Rent Restriction Act (as applicable to U.T., Chandigarh) for eviction of the petitioner-tenant from the first floor of House No.3054, Sector 40-D, Chandigarh, on the ground that the respondent-landlord is a Non-Resident Indian, settled in Canada and due to his old age and other facts, he wants to settle in

India so as to pass his remaining life. It was also mentioned in the

petition that though the respondent-landlord was having permanent resident card from the Canadian Government, but he is continuing to hold Indian passport as well. Petitioner-tenant was requested to vacate the premises at various time and though he promised to vacate, but did not act on his promise. The petitioner-tenant is also not paying rent since June 2008. Hence, the petition for ejectment of the petitioner-tenant was filed on 14.07.2014.

Pending rent petition, the respondent-landlord filed an application under Order 6 Rule 17 read with Section 151 CPC for amendment in the petition. Through the application, he has stated that inadvertently in para No.1 of the petition, it has been mentioned that the petitioner succeeded the premises in question on the basis of a registered Will dated 12.10.1995. In fact, the father of the respondent-landlord had also got the Will registered in his favour in respect of the premises in question. The respondent-landlord has claimed ownership of the tenanted premises since he is actual owner of the same being transferred to him by his father-Harpal Singh Chawla through registered Transfer Deed dated 31.03.2008. There is no change in the claim of the respondent-landlord in respect of ownership. The amendment sought to be incorporated, reads as under:-

“1. That Harpal Singh Chawla, the father of the petitioner was the owner and landlord of residential plot i.e. House No.3054, Sector 40-D, Chandigarh, measuring 7-1/2 Marlas vide LRP No.2232. The father of the petitioner transferred the premises in question in favour of the petitioner vide registered

transfer deed dated 31.03.2008, the copy of which is attached herewith for kind perusal of this Hon'ble Court. With the transfer of the premises in question in the name of the petitioner, the petitioner has become owner and landlord of the premises in question from the date of execution and registration of transfer deed dated 31.03.2008 in his favour by his father namely Sh. Harpal Singh Chawla.”

The respondent-landlord has further stated in the application that the case is at its initial stage and in case, the amendment sought to be incorporated is allowed, it is not going to cause any prejudice to the petitioner-tenant as the relationship of landlord and tenant regarding tenanted premises has already been stated in the rent petition. Therefore, mere reference of 'Will' in the pleading is a typographical error and instead of 'Transfer Deed', the factum of Will was required to be pleaded.

The petitioner-tenant has taken objection for the said amendment on the ground that the respondent-landlord has filed the petition owing to personal necessity and has pleaded that the father of the respondent-landlord, namely, Harpal Singh Chawla was the owner and landlord of the house in question, and after his death, the respondent-landlord has succeeded to the house in question, but he has pleaded ownership on the basis of Will dated 12.10.1995. The respondent-landlord has concealed the most material facts about his status and, therefore, amendment should not be allowed.

After hearing the parties, learned Rent Controller, vide order dated 21.02.2017, has allowed the amendment sought by the respondent-landlord and had observed that though it does not appear only as a typographical error, but considering the fact that the trial is at initial stage and no prejudice will be caused to the other party (petitioner-tenant) as he will have opportunity to rebut the case and conduct of the respondent-landlord. Thus amendment was allowed by the trial Court vide order dated 21.02.2017.

Aggrieved against the aforesaid order dated 21.02.2017, the petitioner-tenant has filed the present revision petition.

Learned counsel for the petitioner-tenant has argued that the respondent-landlord has concealed the material facts at the time of filing the petition. Initially, he claimed ownership on the basis of Will and thereafter, he has pleaded ownership on the basis of Transfer Deed. In this manner, the respondent-landlord has not approached the court with clean hands. Merely because the trial is at initial stage is no ground to allow amendment. In fact, the very purpose of filing application under Order 6 Rule 17 read with Section 151 CPC seeking amendment is an afterthought. Before filing the said application, the petitioner-tenant has moved an application under Order 11 Rules 1, 2 & 4 read with Section 151 CPC seeking leave to deliver the interrogatories. It is under these circumstances, the respondent-landlord has filed the application seeking amendment in the rent petition. Even the respondent-landlord has not opted to file reply to the

interrogatories.

I have heard learned counsel for the petitioner.

So far as the amendment in the pleadings is concerned, it is a consistent view of the court that the amendment should be allowed liberally unless it changes the very nature of the case or has been filed for oblique reasons. In the case in hand, the respondent-landlord has filed rent petition seeking eviction of the petitioner-tenant from the tenanted premises. Earlier, the respondent-landlord has pleaded that he became an owner by virtue of Will, but later on, he has pleaded that there is a transfer deed in his favour. So far as the plea of the petitioner-tenant that the amendment is being sought because he (petitioner-tenant) has sought interrogatories, cannot be accepted. The rent petition is governed by the provisions under Section 13-B of East Punjab Rent Restriction Act and the proceedings under this Act are not strictly governed by the provisions of the CPC. Since the respondent-Jasdeep Singh alias Jasdeep Singh Chawla has filed the petition in his capacity as a landlord and the petitioner as a tenant, the amendment has not changed the nature of relief sought by the respondent-landlord in the original rent petition as well as in the subsequent petition, his status remains the same. In the pre-amended rent petition, he has claimed ownership on the basis of Will, but in the subsequent petition, he has claimed ownership by way of Transfer Deed, but otherwise, the ownership is not in dispute. Furthermore, the trial is at initial stage and, therefore, no prejudice is going to be caused to the petitioner-tenant in

case the respondent-landlord is allowed to amend his pleadings.

In view of above, this Court does not find any illegality in the impugned order and the revision petition filed by the petitioner-tenant stands dismissed.

(HARI PAL VERMA)
JUDGE

05.04.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No