

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

**Civil Revision No.3042 of 2017  
Date of Decision:-01.05.2017**

Giani Ajit Singh

...Petitioner

Versus

Maninder Pal Singh and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. Varun Sharma, Advocate  
for the petitioner.

**HARI PAL VERMA J.**

Petitioner has filed the present revision petition against the order dated 17.2.2017 passed by learned Civil Judge (Junior Division), Jalandhar, whereby the application filed by the petitioner under Order 6 Rule 17 read with Section 151 CPC seeking amendment of the written statement, was dismissed.

Briefly stated the respondents-landlords had filed a petition against the petitioner-tenant under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the petitioner from the premises/shop in question, which formed part of House No.W.B.129/330, Bazaar Sheikhan, Jalandhar as detailed in the rent petition. Primarily the ejectment was sought by the landlords on two grounds :- (i) arrears of rent, (ii) for personal use and occupation of the respondent. While the rent

petition was pending before the Rent Controller, an application under Order 1 Rule 10 CPC was filed by one Jasmeet Singh seeking his impleadment on the ground that his father was a co-owner of the property along with his brother and sister. The said application was dismissed by the Rent Controller vide order dated 23.11.2016. It is the case of the petitioner-tenant that for the first time it has come to his notice that the demised property was never owned by Kaushalya Devi or by Nirmal Singh or his wife Harminder Kaur. Therefore, the petitioner immediately moved an application under Order 6 Rule 17 CPC seeking amendment of the written statement to the effect that the property in question was never owned by Kaushalya Devi, grand mother of the respondents/landlords. It was also not owned by Nirmal Singh or his wife Harminder Kaur, father and mother of the respondents. It has been pleaded that the respondents/landlords are not the owners of the demised premises and, therefore, the petition filed by them is not maintainable.

Learned counsel for the petitioner has argued that the order dated 17.2.2017 passed by the Rent Controller dismissing the application filed by the petitioner under Order 6 Rule 17 CPC is illegal and erroneous. The petitioner wanted to add an additional paragraph in his written statement to the extent that the property in question was neither owned by Kaushalya Devi, grand mother of the respondents/landlords nor owned by Nirmal Singh or his wife Harminder Kaur, who are father and mother of the respondents/landlords. Though Nirmal Singh and Harminder Kaur represented that the property in question was owned by Kaushalya Devi and

she had executed a Will in favour of Harminder Kaur. Therefore, the amendment sought for by the petitioner was liable to be allowed for the just decision of the case.

The law on the amendment is very liberal and amendment should have been allowed if no prejudice was going to be caused to the respondents. Despite his due diligence, the petitioner could not raise this issue earlier before commencing of the trial as the same was not in his knowledge.

I have heard learned counsel for the petitioner.

The solitary ground on which the present application seeking amendment of the written statement was filed is that earlier an application under Order 1 Rule 10 CPC was filed by one Jasmeet Singh to implead himself as party in the present petition. The said application was dismissed on 23.11.2013. On the basis of the said application, it came to the notice of the petitioner that the demised property was not owned by Kaushalya Devi or Nirmal Singh or his wife Harminder Kaur. Therefore, in these circumstances, the petitioner-tenant while filing written statement to the rent petition filed by the respondents/landlords had admitted the respondents as their landlords, not only in the present rent petition, rather in the previous ejectment petition as well. Moreover, it is settled law that tenant cannot challenge the title of the landlords. Once the petitioner has admitted the respondents as their landlords in the written statement, he is estopped from denying the title of the respondents as provided under Section 116 of the Indian Evidence Act. In a rent petition question of title

is not to be decided. In case the petitioner succeed to prove that respondents are not the landlords, the Court will consider that issue and will decide the case on the basis of the available material.

Therefore, this Court does not find any illegality in the order passed by the Rent Controller vide his order dated 17.2.2017.

Dismissed.

May 01, 2017  
Vijay Asija

( HARI PAL VERMA )  
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No