

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

**Civil Revision No.390 of 2017 (O&M)
Date of Decision: 21.11.2017**

Naresh Maini

..... Petitioner

Versus

Chaman Lal

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Sharad Mehra, Advocate for the petitioner/landlord.

Mr. Gursimranjit Singh, Advocate for the respondent/tenant.

JASWANT SINGH, J. (ORAL)

The landlord is in revision directed against the order dated 22.11.2016 (**Annexure P-1**), passed by learned Rent Controller, Amritsar, whereby the application of the landlord for amendment has been dismissed on the ground that the trial has commenced and three of the witnesses of the landlord stand examined.

Learned Counsel for the petitioner/landlord submits that the eviction petition was filed on 13.08.2013 seeking the eviction of the tenant from the demised shop on the ground of personal necessity of the landlord and his son- Abhi Maini for starting a Chemist Shop. It is further submitted that subsequently the petitioner was admitted in the Fortis Hospital, Amritsar w.e.f. 21.11.2014 to December, 2014 for Cardio Vascular and Thoracic Surgery. He thus wishes to incorporate the subsequent event so as to support the added need of the landlord himself because of his illness.

On the other hand, learned Counsel for the tenant submits that two of the witnesses of the landlord stand examined whereas the landlord himself was at

the stage of cross-examination, when the application was moved at the belated stage. He further submits that the proposed amendment seeks to fill up the lacuna.

After hearing learned Counsel for the parties, this Court finds that the present petition deserves to be allowed.

It is not in dispute that the landlord has sought eviction on the pleaded ground of his own personal necessity apart from his son. It is also not in dispute that the instance of the petitioner undergoing the surgery and his consequent medical condition is a subsequent event to the filing of the eviction petition. No doubt at the time of tendering his affidavit in examination-in-chief, the petitioner should have been vigilant enough to seek amendment at that stage but merely because of some delay, the proposed amendment, which goes to the root of the matter, cannot be disallowed merely on the ground of a delay in making the application, as also that part evidence of the landlord stands completed. By the proposed amendment, no prejudice would be caused to the tenant, as he would have full opportunity to rebut the same. For the inconvenience caused to the tenant, he could be suitably compensated.

In view of the above, the present petition is allowed. The aforesaid impugned order dated 22.11.2016 (P-1) is set aside. The proposed amendment, vide application dated 27.07.2015 (P-4), is allowed subject to payment of Rs.10,000/- as costs to be paid to the respondent/tenant by way of demand draft.

November 21, 2017
Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>