

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

CR 5323/2016

Date of decision:07.11.2017

Suresh Kumar

.....Petitioner

v.

Bhupinder Kaur

.....Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Ravi Singh,Advocate for the petitioner/tenant
Mr.Hitesh Ghai,Advocate for the respondent/landlady

Jaswant Singh,J,(Oral).

The tenant is in revision directed against the order dated 1.7.2016 passed by the Rent Controller, Ludhiana whereby the application under Order 6 Rule 17 CPC for amendment of the written statement has been partly allowed.

It is undisputed that respondent/landlady Bhupinder Kaur filed a rent application on 30.4.2013 under Section 13 of the East Punjab Urban Rent Restrict Act seeking ejectment of the tenant/petitioner from the demised premises, fully detailed in the application, on the ground of personal necessity and non-payment of rent w.e.f. February 2012 @ Rs.3800/- per month. The alleged personal necessity is of the landlady herself as also of her daughter. In para 4 of the rent application general allegations have been made that the tenant had agreed to increase the rent and also vacate the property in the month of March 2013. It is also not disputed that after the filing of the rent application the daughter of the landlady had left for Canada for further studies. The landlady while appearing as PW2 in her examination-in-chief produced a writing dated 2.3.2013 Ex.P2 to substantiate the claim of increase of rent as also the undertaking for vacating the premises by the tenant by March 2013. Since there was no mention of the said writing in the original rent application and

the daughter of the landlady had left for Canada, the tenant moved an application for amendment of the written statement to include the pleadings that the proposed need of personal necessity no longer survived as the daughter of the landlady had left for Canada as also the writing dated 2.3.2013 was a forged and fabricated document produced by the applicant / landlady.

Learned Rent Controller vide impugned order partly allowed amendment application qua the subsequent event i.e. daughter of landlady leaving for Canada while declining the request qua writing dated 2.3.2013 simply on the ground that the part evidence of the landlady was over and at such a belated stage amendment could not be allowed on the ground of change of counsel.

At the time of hearing counsel for the respondent/landlady concedes that in view of the non-mentioning of the writing dated 2.3.2013 in the pleadings of the rent application dated 30.4.2013, an opportunity to the tenant was required to be granted for denying the same in the written statement as also leading of evidence.

In view of the above, present revision petition is allowed and learned Rent Controller, Ludhiana is directed to afford effective opportunity to respondent/tenant to lead evidence to prove that the writing dated 2.3.2013 is forged and fabricated document.

With the aforesaid direction the present revision petition is allowed with costs of Rs.5000/- (Rupees five thousand only) to be paid by respondent/landlady to petitioner/tenant by way of demand draft.

07.11.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No