

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

CR No.5052 of 2017(O&M)

Date of Decision:-01.08.2017

Des Raj Chopra.

.....Petitioner.

Versus

Inderjit Manakatala.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Raj Kumar Kakkar, Advocate for the Petitioner.

JASWANT SINGH, J. (ORAL)

Petitioner (tenant) is in revision directed against the order dated 21.04.2017 passed by the Appellate Authority, Ferozepur whereby the application moved by the appellant (tenant) under Order 6 Rule 17 CPC for amendment of the written statement has been dismissed.

Counsel for the petitioner heard at length.

Admitted facts are that the respondent (landlord) filed an eviction petition on 24.04.2014 qua the demised shop on the grounds of arrears of rent w.e.f. 01.01.2014 at the rate of Rs.500/- per month and the shop being unsafe and unfit for human habitation. The tenant filed a written statement denying the relationship of landlord and tenant and, therefore, no order of provisional assessment of rent was passed. The Rent Controller vide decision dated 25.07.2016 found the relationship of landlord and tenant to be established as also the ground of “unfit and unsafe” and therefore

proceeded to evict the petitioner on both counts. Since the relationship was denied no time was granted to clear arrears of rent. The application for amendment to admit the relationship of landlord and tenant was moved on 16.02.2017 during the pendency of the appeal before the Appellate Authority. The plea taken is that the mistake was inadvertent and to substantiate the same reliance has been placed on a Civil Suit for injunction against the landlord filed by the tenant on 31.01.2014 with the pleadings that the tenant had been inducted by the previous owner and after purchase of the demised shop by the present landlord through sale deed dated 24.04.2003, he (tenant) had been regularly paying the rent to the defendant (landlord) under proper receipts. The plea is liable to be rejected in the light of the facts as brought on record in the present eviction petition. In the light of the specific denial no provisional assessment of arrears of rent was made and, thereby prejudice was caused to the landlord. The parties had adduced evidence in the light of the pleadings in the present eviction petition, therefore, after adjudication and eviction, the plea of inadvertent mistake cannot be accepted to the prejudice of the landlord as that would amount to filling up a lacunae.

In view of the above, finding no merit in the present revision the same is hereby dismissed with costs of Rs.10,000/- to be deposited with District Legal Services Authority, Ferozepur.

(JASWANT SINGH)
JUDGE

August 01, 2017
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No