

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

CR No.5149 of 2017

Date of Decision:-04.08.2017

Ajay Aggarwal.

.....Petitioner.

Versus

Vikramjit Rishi.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ashok Sehgal, Advocate for the Petitioner.

JASWANT SINGH, J. (ORAL)

Petitioner-tenant is in revision, aggrieved against the order dated 17/07/2017 passed by Ld. Rent Controller Chandigarh whereby, his application under Order 6 Rule 17 CPC for amendment of the Written Statement at this stage, when the case was fixed for respondent evidence, has been dismissed.

Learned Counsel for the petitioner (tenant) has argued that the learned Rent Controller Chandigarh has wrongly dismissed the application for amendment of written statement although, it was an understanding between the respondent and the landlord that the rate of rent of the premises would be enhanced only if respondent has a share of 40% in the premises. However, vide agreement dated 29/04/2014, it has come out that the respondent does not have 40% share in the property and thus, the petitioner did not have any locus standi to file the ejectment application. Since, these are subsequent events, therefore, the counsel for the petitioner prays that he should be permitted to amend his written statement accordingly.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition

is devoid of any merit and same deserves to be dismissed.

A perusal of the paper book would reveal that originally, petitioner-tenant had filed a written statement, whereby he had not disputed the relationship between the parties of landlord-tenant. However, when the stage was fixed for respondent witnesses then, he has moved the present application for amendment of the written statement to take a plea that the respondent-landlord does not have any locus standi to file the present ejectment application because his share is not 40% in the demised premises. However, this Court is of the opinion that the petitioner-tenant cannot be permitted to approbate and reprobate at the same time. Admittedly, petitioner has taken the premises on rent from the respondent-landlord and has been regularly paying the rent to him. In case, there is any dispute amongst the owners qua the percentage of ownership, the tenant has no locus to challenge the same, especially in view of the settled law that a co-owner is entitled to maintain a petition for eviction. It seems that the tenant is only inclined to delay the proceedings by moving frivolous application for amendment of the written statement.

In view of the above, finding no infirmity in the impugned order, the present petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

August 04, 2017
Vinay

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