

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5797 of 2016 (O&M)

Date of Decision: 2.5.2017

Sukhdev Singh

..Petitioner

Vs.

Dharampal Gupta

..Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.A.S.Narang, Advocate for the petitioner.

Mr.Abhinav Gupta, Advocate for the respondent.

G.S.SANDHAWALIA, J.

Challenge in the present revision petition is to the order dated 6.8.2016 passed by the Rent Controller, Chandigarh whereby the application under Order 6 Rule 17 CPC for amendment of the eviction petition of the landlord-respondent, has been allowed. By virtue of the said amendment, mandatory ingredients, which are necessary to be pleaded under Section 13(3) (a) (i) (b) & (c) of East Punjab Urban Rent Restriction Act, 1949 as extended to Chandigarh were sought to be incorporated at the stage of rebuttal and arguments.

Counsel for the petitioner has submitted that a specific objection had been raised in the written statement that the petition did not contain necessary ingredients regarding the possession aspect and vacation of similar property of the landlord. It is submitted that the issue regarding the maintainability of the petition was also struck when issues were framed

on 23.8.2013. When the matter had been argued at its fag end i.e. on 14.12.2015, the application was filed on 17.12.2015 (Annexure P-4) and it was contested by filing reply by the tenant that there is ownership of property and that there was possession of other commercial properties and therefore, amendment could not be allowed at that stage. Needless the impugned order was passed on the ground that a liberal view has to be taken to minimise the litigation.

It is to be noticed that interim order dated 19.10.2016 had been passed by this Court whereby the trial Court was given liberty to proceed ahead with the matter but the final order was not to be passed. Counsel for the petitioner has referred to the cross examination which was conducted on 28.9.2016 prior to the interim order being passed and subsequently on 5.10.2016 wherein certain facts have come on record that there was possession of other properties which would be, namely, an industrial plot as such in the urban area of Chandigarh and commercial property in Sector 17 in occupation of the brother.

Counsel for the petitioner has pointed out that bonafide requirement is on account of the personal use of the landlord and his brother. It is accordingly agreed inter se by the counsels that in such circumstances, it would be better if a fresh order is passed on the application under Order 6 Rule 17 CPC as it would be necessary for the Rent Controller to go into the issues as to whether any admission had come on record in the form of evidence which was being sought to be withdrawn or not and whether the tenant would be prejudiced by the proposed amendment.

Mr.Gupta, counsel for the respondent further submits that he

file necessary application before the Rent Controller for the necessary relief if permissible under law.

Accordingly, the order dated 6.8.2016 is set aside. The Rent Controller shall re-decide the application under Order 6 Rule 17 CPC afresh keeping in view the above material, which is already on record. Liberty is granted to the landlord to file appropriate application before the Rent Controller, as prayed for, subject to the above observations.

(G.S.Sandhawalia)
Judge

2.5.2017
Meenu

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