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

Civil Revision No.6790 of 2015(O&M)

Date of decision: 11.5.2017

Nabeela Parveen

...Petitioner

Versus

Gurcharan Singh

...Respondent

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

Present: Mr. Mansur Ali, Advocate for the petitioner.

Mr. Sunny K. Singla, Advocate for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition filed by the landlord is directed against the order dated 23.9.2015 whereby the Rent Controller, Malerkotla has dismissed the application for amendment of ejectment petition.

The reasoning given is that the application was filed at the stage of respondent-tenant's evidence and the plea taken that it was inadvertently not mentioned regarding memorandum of oral gift being reduced in writing on 8.6.2011 was not acceptable and it was to fill up the lacuna in the petition.

A perusal of the pleadings would go on to show that the petition under Section 13 of the East Punjab Rent Restriction Act, 1949 was filed by the petitioner on the strength that her father-in-law Mohd. Bashir was owner of the building in question and had orally gifted the same to her. Resultantly she had filed eviction petition seeking eviction on the ground of arrears of rent and on the ground of bonafide requirement.

In the written statement filed, the factum of alleged oral gift deed dated 1.6.2011 was denied. It was further pleaded that building remained in the name of Mohd. Bashir and he was still owner of the said building as per record of the Municipal Council, Malerkotla.

The issues were framed on 2.8.2013 and issue no.4 pertains to maintainability. Thereafter, the petitioner examined her father-in-law who in his affidavit deposed about the factum that the gift deed in question had been put down in writing on 8.6.2011 which was got typed on the Computer from one Bundu @ Mohammad Sabar, Deed Writer, Malerkotla. The same was taken on record as Ex. AW-1/B and was attached with the affidavit dated 10.9.2013.

It is in such circumstances the application for amendment was filed to bring on record the factum of gift deed which is incorporated by way of writing on 8.6.2011 and the amendment was sought to that effect which was declined on the ground that it was at a belated stage.

Counsel for the petitioner has pointed out that as per documents submitted along with the petition at the time of filing of the same, attested copy of memorandum of gift deed was also attached at serial no.2. It is thus apparent that right from the start, the plea was on the basis of oral gift deed. The amendment which is sought is only for the purpose to bring the pleadings in consonance with the documents that there was a gift deed which had already been attached at the time of filing of the eviction petition. As noticed issue no.4 also pertained to the maintainability of the petition in question. Though the amendment applicable had been filed at a belated stage but amendment would help the Court to adjudicate upon the

issue in question and determine the real question in controversy between the parties and whether the petitioner has any legal right to seek eviction on account of which the plea has been taken and whether the respondent is liable to be evicted on the ground given in the petition.

In such circumstances, this Court is of the opinion that view which has been taken by the Rent Controller, Malerkotla vide order dated 23.9.2015 is not justified. The delay, if any, would be detriment to the petitioner-landlord and the other party can suitably be compensated by way payment of costs.

Accordingly, the present revision petition is allowed. The proposed amendment is allowed subject to payment of costs of ₹ 5,000/- which is to be paid to the respondent-tenant.

May 11, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No