

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

C.R. No. 719 of 2016 (O & M)

Date of decision: 14.02.2017

Narinder Singh

....Petitioner(s)

Versus

Satwinder Singh @ Rimple and another

...Respondent(s)

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

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Mr. Rajbir Singh, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The challenge in the present revision petition is to the order dated 14.07.2015 (Annexure P-3) passed by the Rent Controller, Budhlada whereby, the application for amendment of the rent petition has been dismissed on the ground that the father of the landlord had filed a civil suit dated 30.08.2011, in which, he had taken the plea that the tenants were in forcible possession of the shops. Therefore, by virtue of the amendment which was proposed that the respondents were tenants would amount to an estoppel.

The application for amendment which was filed by the petitioner-landlord was that “he had considered the respondents as tenants in the shop in dispute”. Similarly, amendment was sought “that after the death of the father of the landlord, his mother had told him that his father Harbans Lal had told her that after taking the shop by the respondents, they had assured that after some time they will vacate the shop. If they do not

vacate the shop, they would pay the rent as per the market rate but the respondents did not pay the rent of the shop.”

Counsel for the respondents has, thus, argued that the order is well justified and it had never been pleaded that the respondents were the tenants as such and in view of the earlier litigation whereby the father of the landlord had held out the fact that the respondents were in forcible occupation. Therefore, the claim for amendment was not justified and the parties could not alter and fundamentally change the nature of the eviction petition and an admission which had been made could not be withdrawn.

However, the fact remains that inter se litigation in another suit filed by Satwinder Singh tenant has also been placed on record which was for permanent injunction which was directed against the landlord. A perusal of the judgment dated 23.09.2015 (Annexure P-4) would go on to show that it had been pleaded that Harbans Lal was the father of the present petitioner who had given the shop in question to the plaintiff/tenant on rent and the suit was decreed on that account.

Thus, on both sides, there is a dispute as such regarding the status of the parties, which is the core question which would have to be decided by the Rent Controller. The Rent Controller, by disallowing the amendment, has already given a decision and adversely affected the rights of the landlord. It is settled principle that the findings are to be recorded on the basis of evidence as such and at the stage of amendment only, the Court is not to decide this issue. In this way, this Court is of the opinion that by virtue of the amendment, the Rent Controller would take into consideration the evidence on record which is in the form of civil suits inter se the parties

where conflicting stands had been taken regarding the status of possession and then decide whether there was a relationship of landlord-tenant inter se them.

In such circumstances, the order cannot be held to be justified because the respondents-tenants are also estopped by holding out that they were not tenants in view of the earlier stand also. Resultantly, the present revision petition is allowed. Order dated 14.07.2015 (Annexure P-3) is set aside and the proposed amendment is allowed. It is, however, made clear that anything said herein is only for the purpose of deciding the present application and the trial Court shall not be biased by any of the observations made herein.

14.02.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No