

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

CR No. 7941 of 2017 (O&M)

Date of decision: 24.11.2017.

M/s Gurj Chemcial Works and another

...Petitioners

versus

S. Tejinder Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : Mr. Brij Mohan Vinayak, Advocate
for the petitioners.

RAJIV NARAIN RAINA, J. (ORAL)

1. The revision petition in hand has been filed under Article 227 of the Constitution of India read with Section 151 of the CPC for setting aside the impugned order dated 03.10.2017 (Annex. P-1) passed by the learned Additional District Judge-cum-Appellate Authority, Amritsar under the rent law, vide which application under Order 6 Rule 17 of the CPC for amendment of the written statement filed by the petitioner-tenant has been dismissed. It is contended that the impugned order is erroneous and deserves to be set aside and the application allowed.

2. I have no doubt that the petition is without merit because the fact sought to be introduced by amendment is out of context in a case of bona fide need to recover possession by the respondent landlord of the demised shop for his own use and occupation.

3. The factual position is that the two adjoining buildings may be under roof but they bear two separate municipal numbers, i.e., Shop

No. 2614/6 & 2615/6 while the demised premises is Shop No. 2614/6. The other shop-building belongs to the wife of the landlord, namely, Mrs. Gurwinder Kaur. The sale deed of the property is in the name of Mrs. Gurwinder Kaur though the rent note has been executed by S. Tejinder Singh in the name of Mrs. Gurwinder Kaur as her attorney. Therefore, it could not be successfully said that the demised property is owned by S. Tejinder Singh and not his wife merely due to the rent note. What Mrs. Gurwinder Kaur does with her property is her business and the two properties cannot be clubbed together to allow the contention that if the shop owned by Mrs. Gurwinder Kaur is vacant, then there is no case of personal necessity of the landlord S. Tejinder Singh made out.

4. The view taken by the learned Appellate Authority in its order dated 03.10.2017 which is impugned in this petition is the correct position on facts and in law. Still further, the application for amending the written statement by tenant made at the fag end of the appeal when the case has matured for arguments as an additional reason for dismissal of the appeal is also in order. Learned Appellate Authority, Amritsar is justified in his line of reasoning, that even otherwise, the introduction of this fact regarding the adjoining building sufficient to satisfy the claim of the respondent landlord was not necessary for disposal of the appeal which is confined to the landlord's personal requirement independent of the building owned by his wife.

5. I have found no good or sufficient reason to warrant interference with the impugned order declining the application for amendment of pleadings and accordingly the petition is ordered to stand dismissed. Nothing said in this order is on merits of dispute or will prejudice the parties in the main appeal, nor will influence the mind of the Appellate Authority in passing final orders since the scope of the instant revision was only to test the correctness of the interlocutory order.

(RAJIV NARAIN RAINA)
JUDGE

November 24, 2017

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Whether speaking/reasoned : Yes
Whether reportable : No