

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

C.R. No. 8547 of 2014
Date of decision: 31.01.2017

Lakhwinder Singh

....Petitioner(s)

Versus

Kanta Rani

...Respondent(s)

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

Present: Mr. Arun Jindal Advocate,
for the petitioner.

Mr. Jatinder Singla, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition is filed by the petitioner-tenant and is directed against the order dated 26.11.2014 (Annexure P-3) whereby, the application for amendment of the written statement filed by the tenant has been rejected when the case was fixed for rebuttal and arguments.

The reasoning given by the Rent Controller is that in the petition itself, the landlady had mentioned that she required the demised shop and the adjoining shop for the bona fide need of his son Mukesh Kumar and once she has given her need from the very beginning and even if the adjoining shop is vacated by the tenant Satpal during the pendency of the present revision petition, it was not necessary to bring the said fact on record.

Counsel for the petitioner has vehemently submitted that it was only for the just and proper adjudication that the said amendment was

necessary and it was a subsequent event since the vacation by tenant Satpal was on 24.10.2013 after the filing of the rent petition on 01.05.2012.

Two facts were sought to be brought on record by the application for amendment. One was regarding the adjoining shop which was on rent with Satpal which had been vacated during the pendency of the eviction petition and secondly that there was some portion lying vacant on the back side of the residence of the landlady and that the landlady had shifted to PUDA colony, Sunam Road, Sangrur.

The said application was resisted by filing reply by the landlady on the ground that both the shops were of small sizes and one shop was for placing the counter for attending the customers and the other for using as a studio. The requirement of son did not come to an end with the possession of the shop which was earlier in possession of Satpal. Regarding the other averment, it was specifically mentioned that the house in question was being renovated and the petitioner and her son had shifted back to their house behind the demised shop. The residential building cannot be converted into a commercial building and, therefore, the amendment as such was mala fide and prolonged to harass the landlady.

A perusal of the eviction petition, which was filed by the petitioner would go on to show that a specific claim was made and clarified by the landlady that apart from the shop in question, her son required both the shops which was in possession of Satpal, the tenant against whom a separate application had been filed. The said shop and the adjoining shop were most suited for employment of the son as the same were located in the heart of the city near the main market, Sangrur. Thus, the facts were already placed before the Rent Controller that the need was of both the shops. The

subsequent event of both the shops would not be a necessary fact which was required to be adjudicated upon and, therefore, the amendment sought at that stage for bringing on record the subsequent event would be of no consequence. The petitioner-landlady's specific case is that both the shops in question are required and, therefore, even if one has become vacant during the pendency of the ejectment application, will not as such mean that the need of the landlady has evaporated for her son.

Even regarding the other plea which is sought to be taken as to vacation of the premises, it has been as such clarified that there was a renovation and the said premises were residential in nature and could not be used for the purpose of a shop which the tenant had suggested. Thus, in such circumstances, this Court is of the opinion that the amendment in question would not be necessary for the purpose of determining the real question in controversy between the parties.

In such circumstances, keeping in view the above cumulative factors, this Court is of the opinion that there is no error as such in the order passed by the Rent Controller declining the amendment. Accordingly, the present revision petition is dismissed. However, it is made clear that anything said herein will not prejudice the case of the tenant since the observations herein are only for the purpose of deciding the present revision petition.

31.01.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

