

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8904 of 2017 (O&M)

Date of Decision:21.12.2017

Naresh Kumar

... Petitioner

Versus

Bhagat Singh and another

... Respondents

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

Present: Mr.V.K.Thakur, Advocate for the petitioner

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard the learned counsel for the petitioner and have gone through the paper-book with the assistance of counsel.

2. It is argued that in case of non-pleading of an essential ingredient, such as, the provisions of Section 13 (3) (a) (i) of the East Punjab Urban Rent Restrictions Act, 1949 (for short “the Act”), the landlord is required to be provided an opportunity to make necessary pleadings. The delay in bringing an application for amending the pleadings is not fatal for the landlord. An amendment sought at belated stage cannot be refused if it is found that it is necessary for deciding the legal controversy between the parties. (See: Shri Banke Ram vs. Smt. Sarasti Devi, 1977 (1) RCR (Rent) 595 (FB), Surender Kumar Sharma vs. Makhan Singh, 2009 (2) RCR (Rent) 354 (SC) and Rajinder Parshad vs. Sohan Lal, 2012 (1) RCR (Rent) 201).

3. Non-incorporation of essential ingredients of Section 13 (3) (a) (i) of the Act is stated in this case not to be a lapse on the part of the landlord, but is a poor reflection on the inadequate legal skill and assistance

Md. Firoz Khan that counsel offered. Therefore, the lapse can be attributed to the counsel
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for which, party should not suffer. (See: Sukh Sagar and others vs. Hem Raj and others, 1995 (3) RRR 411).

4. The defect in the present case is also in not pleading the essential ingredients of the aforesaid Section. No doubt, the application for amendment was filed by the landlord four years after the institution of the rent petition and both the landlord and his counsel were lackadaisical in pursuing the case by seeking as many as 22 opportunities to lead evidence. In these circumstances, instead of adding more heft to the judicial file, recourse can be had to a via media permit allowing the petitioner to withdraw his eviction petition with liberty to institute a fresh one on the same cause or causes of action so that the amendment sought through the application can be incorporated in the main petition and the trial based there upon. In case such recourse is adopted, no prejudice would be caused to the tenant/respondent, and therefore, notice is not required to be issued to him to pass a contemplated order, in my opinion.

5. As a result of the above discussion, no orders are required to be passed on the correctness of the impugned order, in view of the permission granted to the petitioner/landlord presently to file a fresh rent petition on the same cause or causes of action, or as advised. The present rent petition filed before the Rent Controller, Sultanpur Lodhi, District Kapurthala is ordered to be closed. With the aforesaid liberty, this petition is disposed of.

(RAJIV NARAIN RAINA)
JUDGE

21.12.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No