IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2509 of 2018 (O&M)
Date of decision: 20.04.2018

Kuldeep Singh

.....Petitioner

Versus

Inderjit Singh

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Balbir Singh Jaswal, Advocate,
for the petitioner.

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Ritu Bahri, J.

Challenge in this petition is to the order dated 16.03.2018 (Annexure P-6) passed by the Rent Controller, Amritsar, whereby application filed by the petitioner under Order 6 Rule 17 CPC for amendment of the written statement, has been dismissed.

Inderjit Singh-respondent (landlord) filed an application (Annexure P-1) under Section 13 of the East Punjab Urban Rent Restriction Act for ejectment of petitioner-tenant from one shop measuring 12' x 24', situated on Cooper Road, Amritsar on the ground of *bonafide* necessity and ignoring the terms and conditions of the Rent Act. Upon notice, tenant-petitioner filed written statement (Annexure P-2), whereby it was pleaded that the application was not maintainable as there was no relationship of landlord and tenant between the parties. It was further submitted that landlord-respondent had not impleaded legal heirs of S. Amar Singh as well

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as Satpal Singh. There was no *bonafide* requirement of the landlord. On merits, it was submitted that the present petitioner was inducted as tenant in shop in dispute by Amar Singh Nagi, who was owner to the extent of 1/2 share and Mohinderjit & Brothers, who had the remaining 1/2 share. Petitioner (respondent herein) was not the sole legal heir of deceased Satpal Singh.

Inderjit Singh-respondent while appearing as AW-1 has admitted in his cross-examination, that he was receiving rent from other tenants sitting in shop nos. 102, 103 and 105. It was also admitted that he had not filed eviction petition against any of his tenants sitting in shop nos.102, 103 and 105. He was not receiving any rent from the present petitioner as he was not his landlord.

Thereafter, petitioner-tenant filed an application under Order 6 Rule 17 CPC (Annexure P-4) for amendment of the written statement. Along with this application, he had placed on record detailed site plan showing possession of the co-owners in order to prove that Inderjit Singh (respondent) was having independent possession and business towards backside of the rented premises i.e. shop nos. 102, 103 and 105. It was pleaded that the present petitioner was paying rent to Mohinder Singh and Adarshpal Singh. As per petitioner, neither he was paying any rent to the respondent-Inderjit Singh nor he was his landlord. All the co-owners were necessary parties as partition had taken place between them. Landlord (respondent herein) filed reply (Annexure P-5) to this application taking a plea that all the co-sharers were not required to be impleaded as party in the ejectment petition. The Rent Controller, after hearing learned counsel for the parties, dismissed the application vide impugned order dated 16.03.2018

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(Annexure P-6).

While passing the impugned order, it was observed that relationship of tenant and landlord has been denied. However, petitioner-tenant had admitted that he was inducted as tenant by Amar Sing Nagi and Mohinder Singh & Brothers. After the death of Amar Singh, his legal heris became co-sharers. The eviction petition could be filed by one of the co-sharers and hence, non-impleading of all the co-sharers cannot be a ground to amend the written statement. Moreover, the Rent Controller was not to decide as to who had inherited which portion of the property as per family settlement. Once, the relationship had been denied, the petitioner (tenant) could not be allowed to take a plea that he had treated the other co-sharers as his landlords.

Heard.

After going through the facts and circumstances of the case as well as the impugned order, this Court is of the view that application filed by present petitioner under Order 6 Rule 17 CPC has been rightly dismissed by the Rent Controller, as this application has been filed at the stage of recording of evidence of tenant (petitioner). The landlord (respondent herein), in his cross-examination has admitted that he was taking rent from other tenants sitting shop nos.102, 103 and 105. Hence, existence of other shop is already a part of evidence. This admission can be made basis for adjudication of the matter at the final stage.

At this stage, no ground is made out to allow the petitioner (tenant) to amend his written statement. Accordingly, no illegality, much less perversity, has been found in the impugned order warranting interference by this Court.

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Resultantly, finding no merits, present petition stands dismissed.

(RITU BAHRI)
JUDGE

20.04.2018
ajp

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

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