

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.3053 of 2018 (O&M)
Date of decision: September 11, 2018

Doaba Tent House

...Petitioner

Versus

Gunvaneet Kaur & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Kulveer Narwal, Advocate for the petitioner
(in both cases).

Mr. Chetan Goel, Advocate for respondents (in both cases).

Rajan Gupta, J.

This order shall dispose of two revision petitions i.e. Civil Revision No.3053 of 2018 and Civil Revision No.3038 of 2018, both filed by petitioner Doaba Tent House, against two orders dated 28.03.2018 and 16.4.2018, passed by the Appellate Authority, Chandigarh, whereby two applications, one moved under Order 6 Rule 17 CPC for amendment of written statement and the other under Order 41 Rule 27 CPC for leading additional evidence, have been rejected.

Briefly, factual background of the case is that Maninder Singh landlord filed an eviction petition against the petitioner in the year 2002 on the ground of personal necessity, claiming to be proprietor of a firm in the name and style of M/s Combined Cable Operation Network. It averred that his wife Gunvaneet Kaur was also running the business in

the name and style of M/s World Waves as a sub operator in different sectors and his wife owned Booth No.17, Sector 20, Chandigarh. Having failed in the same, she filed appeal before the Appellate Authority. Same, however, failed. Landlord preferred Civil Revision Nos.5331 and 5332 of 2014 before this court. Same were disposed of vide order dated August 16, 2017, operative part whereof reads as under:-

“Although great emphasis is being laid down by the counsel for the respondent/tenant regarding the manner of acquisition of the title by the landlord-Maninder Singh, however, the conceded fact is that there is a registered sale deed dated 08.12.2000 (Ex. P-1) on record, whereby Maninder Singh became the owner of the demised premises.

It is not in dispute that a mutation also has been entered in the office of Estate Office, Chandigarh, recording title of Maninder Singh based on the sale deed (Ex. P-1). Therefore, Maninder Singh and after his demise, his legal representatives have become natural landlords being owner of the demised premises. It is settled law that in rent proceedings, the manner of acquisition of title cannot be gone into, moreso, when nobody has come forward to challenge the title of Maninder Singh acquired pursuant to the sale deed Ex. P-1. It is not the case of the tenant/respondent that anybody else is the landlord or is the owner of the demised premises. Therefore, this Court finds that the findings recorded by the Appellate Authority on the issue of the landlord and tenant cannot be sustained and, therefore, hereby set aside.

Since the issue of personal necessity was not decided by the Appellate Authority, Chandigarh, therefore, the matter is remanded back to the Appellate Authority to be decided afresh, and adjudicate the ground of personal necessity.

In view of the above, both the appeals are allowed in the aforesaid terms, the parties are directed to appear through their counsel before the Appellate Authority concerned on **23.10.2017.**”

After remand of the proceedings before the lower Appellate Authority, instant application was moved by the petitioner seeking amendment in the written statement to incorporate certain averments purportedly based on subsequent events, in order to show that landlord had no personal necessity any longer to seek eviction of the tenant. He moved a separate application under Order 41 Rule 27 CPC to lead additional evidence in respect of the amendment sought to be made.

On due consideration of the matter, I feel that the petitioner/tenant cannot be allowed to change the entire nature of the proceedings by carrying out material changes in the written statement. Besides, such changes are not envisaged by the remand order passed by this court in Civil Revision No.5331 of 2014. It is pertinent to note that eviction proceedings were instituted way back in the year 2002. Whereas the original tenant Maninder Singh died, his widow, both sons and mother are now pursuing the matter. Plea for amendment of written statement at this later stage, deserves to be rejected. Ordered accordingly. Similarly, the application under Order 41 Rule 27 CPC for leading additional evidence, is misconceived. Mandate of the remand order was for the lower appellate authority to decide the question of personal necessity. Colour of the proceedings would change if such applications are allowed. It would give rise to almost fresh proceedings which remand order does not envisage. It is inexplicable why such pleas were not raised before the revisional court at the time of decision of the Civil Revision Nos.5331 and 5332 of 2014. It appears, intention of the tenant is only to delay the

proceedings further by making one application or the other. Both the petitions are without any merit and are hereby dismissed.

(RAJAN GUPTA)
JUDGE

September 11, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No