

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

107

CR-3658-2017 (O&M)

Date of Decision : 08.05.2018

Dr. Sanjeev Gaurav

..... Petitioner

Versus

Sunita Sharma

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. A.P. Kaushal, Advocate
for the petitioner.

None for the respondent.

AJAY TEWARI, J. (Oral)

This petition has been filed against the order of the Rent Controller allowing an amendment application moved by the respondent-tenant after the stage of issues.

The petitioner had filed a rent petition claiming that the respondent was his tenant w.e.f. 15.09.2007 @ Rs.2000/- p.m. Plus House Tax. In reply the respondent-tenant stated that the petitioner was neither her owner nor she was a tenant under him. In the replication the petitioner further explained that the respondent had also executed the rent note dated 15.09.2007 when she had taken the premises on rent from him. Thereafter the respondent moved an application in which she stated that in the original reply inadvertently she could not mention that the actual owner of the premises in dispute was the Church of North India which had inducted her husband as a tenant in the year 2004 by another rent note. The petitioner

opposed the application for amendment. However, by the

impugned order the same was allowed and that is how the landlord-petitioner is before me.

Counsel for the petitioner has argued that the pleas which have now sought to be taken by the respondent were never taken by her in the written statement and are inconsistent to her original stand. This precise argument has been considered by the Rent Controller who has noticed that even in the original written statement the respondent had denied the ownership of the petitioner and relationship of landlord and tenant between them and by the proposed amendment she had only clarified this aspect and had not taken any inconsistent stand.

Counsel for the petitioner has then argued that the application for amendment should have been filed before the trial commenced i.e. before the issues are struck. However, I find that while the replication was filed on 01.07.2014 the application for amendment was filed by the respondent within 4 days on 05.07.2014. The probable reason is that the issues were framed on the same date as the replication was filed.

In the totality of circumstances, I am not persuaded by the arguments of the counsel for the petitioner and find no fault with the discretionary exercise undertaken by the Rent Controller.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

May 08, 2018
ashish

(AJAY TEWARI)
JUDGE