

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

119

CR No.4325 of 2018 (O & M)
Date of Decision:10.07.2018

Mohinder Singh

...Petitioner

Versus

Rashwinder Singh (deceased) through his LR and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankur Bansal, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Defendant-petitioner is in the revision petition against the order passed by the learned Rent Controller dated 14.05.2018 permitting petitioner-landlord to amend his petition and plead personal necessities of the legal heirs as original landlord has died during the pendency of the eviction proceedings. The para sought to be incorporated is extracted as under:-

“That the above said petition was filed by the petitioner/landlord before this Hon'ble court. As the petitioner/landlord is to establish merchandise store or shop for livelihood and the premises in dispute are more suitable for the said premises for earning livelihood for himself and his dependants family members. But unfortunately, during the pendency of present petition the petitioner/landlord died and left behind his wife and

two minor sons and old parents. After his death the premises is required for his legal heirs i.e his widow wife and two minor sons and his depended parents as they want to establish merchandise store or shop for their livelihood, as there is no source of income for them and the premises in dispute are more suitable for the said business.”

The aforesaid application has been allowed by the Rent Controller and the tenant-petitioner has challenged the aforesaid order.

Learned counsel for the petitioner has submitted that initially in the petition late Sh. Rashwinder Singh, the alleged landlord, had pleaded his own need and necessity. He submitted that after the death of Rashwinder Singh now necessity of his Class I heirs is sought to be pleaded. He hence submitted that this would change the entire complexion of the case. He further drew attention of the Court to the fact that the trial is almost over and therefore, amendment cannot be allowed. He has further submitted that the tenant had from very beginning taken a stand that landlord is Ranjit Singh, father of late Sh. Rashwinder Singh and since Ranjit Singh is being impleaded as one of the legal heir, therefore, the entire defence of the petitioner would stand frustrated.

This Court has considered the submission. However, find no substance therein. It is unfortunate that a landlord, who was wanting possession of his premises, has died during the pendency of the petition before the Rent Controller. Since in the eviction proceedings, landlord had pleaded his own necessity, therefore, necessity arose to move an application

for amendment of the petition, which has been allowed. The legal heirs have

pleaded that they need the premises for the same purpose to earn their livelihood. Such amendment is result of a subsequent event i.e. death of the original petitioner.

Learned Rent Controller has rightly allowed the application because the case is still pending before the Rent Controller. It is needless to say that pursuant to the amendment, tenant-petitioner would be granted opportunity to file his amended written statement and lead evidence whatever is required in support of the amended pleadings.

In the considered opinion of this Court, the amendment is consequent upon a subsequent event i.e. death, which is inevitable. Once the landlord has died, the application for amendment has been filed by the landlord as an abundant caution. Second argument of learned counsel is just to be noticed and rejected. Merely because defence pleaded by the tenant is getting frustrated due to a subsequent event cannot be a ground to refuse bona fide averment of pleadings which is necessary on account of death of the landlord during pendency of the case.

Such being the position, this Court does not find any good ground to interfere.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

10.07.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No