

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

CR No.4744 of 2018

Date of Decision: November 17, 2018

Rajiv Kanda

..... Petitioner

Versus

Harbhajan Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. C.L.Verma, Advocate for the Petitioner.

Mr. V.K.Kaushal, Advocate for
Mr. Naveen Batra, Advocate for the Respondent.

SUDIP AHLUWALIA, J.

This Revision Petition is directed against the order dated 18.07.2018 passed by the Ld. Rent Controller, Garhshankar, District Hoshiarpur, and in the Eviction Petition filed by the Respondent against the Petitioner, who is stated to be a Tenant in respect of one shop under the respondent.

2. It transpires that earlier an amended Written Statement as a consequence of an amendment to the plaint was filed by the Petitioner on 18.04.2015, against which the Respondent/Landlord filed his own rejoinder on 19.10.2015.

3. Thereafter, the matter came up for trial, but the Petitioner on 03.07.2018 filed an amendment application seeking to add a new fact that the landlord had 'got vacated a shop from the heirs of his Tenant-Shiv Kumar, but had rented out the same in the month of January, 2016 to one

Madan Lal @ Billa, and that in the circumstances, it was clear that he did

not require to demise the shop, occupied by the Petitioner for his personal use.

4. Ld. Trial Court, however, rejected the proposed amendment after observing that it was “Bald”, and does not clarify as to from whom the respondent got such knowledge.” In addition, the application was also rejected on account of the delay of one and half years in moving the same.

5. In the opinion of the Court, the delay in the present case would not be a sufficient ground to reject the proposed amendment outright. This is so because undoubtedly the alleged requirement of demised shop for personal use and occupation as claimed by the Respondent/Landlord is one of the main issues before the Rent Controller. As such, he would be required to disclose what accommodation is otherwise available to him and whether or not he has vacated any other premises which was so available to him. Thus, an averment to the effect that during pendency of the proceedings, he has got vacated or rented out any other premises belonging to him would be a materially relevant question to ascertain his bonafide need as claimed.

6. The present Petitioner/Tenant therefore, ought to have been permitted to incorporate this alleged new development, stated to have been taken place in January, 2016 i.e. after the Landlord had already filed his amended Replication on 19.10.2015. Of course, considering that evidence from his side had already been led, and the matter had reached the stage of evidence from the Tenant's side, the Landlord could have been compensated for the delay in bringing the alleged facts in his pleadings with sufficient costs.

7. For the above reasons, the impugned order passed by the Ld. Rent Controller, Garhshankar is set aside and the Petitioner/Tenant is granted liberty to amend his Written Statement in terms of his amendment

application filed before the Rent Controller, subject to payment of costs of Rs.15000/- in favour of the Landlord/original Petitioner, who will thereafter also be at liberty to file any supplementary Replication in view of the permitted amendment, and also to lead any additional evidence from his side.

8. Disposed off.

(SUDIP AHLUWALIA)
JUDGE

November 17, 2018
AS

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |