

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 5962 of 2018(O&M)
Date of Decision 22.10.2018

Raman Bedi

.....Petitioner

Versus

Jia Lal etc.

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Pardeep Rajput, Advocate
for the petitioner.

Mr. Sharad Mehra, Advocate
for respondent no.1.

LISA GILL, J.

Petitioner is aggrieved of order dated 10.07.2018, passed by the learned Civil Judge (Jr. Division), Amritsar, whereby application for amendment of written statement filed by the petitioner, has been dismissed.

Respondent-landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act seeking eviction of the present petitioner from the demised premises, which is a shop. It was specifically pleaded that the shop in question had been given on rent to the present petitioner-tenant by Ram Piari, wife of Sardari Lal. It was further pleaded that Ram Piari passed away, leaving behind the respondent-landlord along with his brother-Vijay Kumar and sister-Santosh Devi. Shop in question, it was pleaded came to the share of the petitioner by way of an oral family settlement and two of the shops came to the share of Vijay Kumar. The present petitioner was stated to be the tenant in the shop which had fallen to the share of the petitioner. The brother and sister of the respondent-landlord were duly impleaded as parties in the petition.

Written statement was filed by the present petitioner admitting

the relationship of the landlord and tenant. It was further not denied that rent had been paid by the present petitioner to respondent no.1, though it is averred in the written statement that the rent used to be received by the petitioner as well as his sister-Santosh Devi.

Application under Order 6 Rule 17 CPC (Annexure P-3) was moved by the petitioner seeking amendment of the written statement while incorporating the factum of filing of a civil suit by respondent no.1 against his brother and sister seeking partition of the property in question. The said application was dismissed by the learned Rent Controller, Amritsar vide impugned order dated 10.07.2018.

Aggrieved therefrom, the present petition has been filed.

Learned counsel for the petitioner argues that respondent no.1 has not approached the Court with clean hands. His *bona fides* are lacking. Therefore, to prove the same, it was necessary to amend the written statement incorporating the factum of filing of a civil suit at a subsequent stage by respondent no.1 especially in wake of the specific stand taken by respondent no.1 in the petition that oral settlement in regard to the property had taken place between the co-sharers and the shop in question had fallen to his share. It is thus prayed that this petition be allowed.

Learned counsel for respondent no.1 while not denying that the said civil suit was filed, submits that civil suit has been filed seeking partition by metes and bounds. It is specifically mentioned in the petition under Section 13 of the Act, that an oral settlement had taken place between the parties. There is no mention of partition by metes and bounds. Therefore, there is no question of not approaching the Court with clean

hands. The other co-sharers have been duly impleaded as parties to the rent petition before the learned Rent Controller, as well. It is thus prayed that this petition be dismissed.

I have heard learned counsel for the parties.

It is not denied that the petitioner-tenant has admitted the relationship of landlord and tenant between himself and respondent no.1. It is further admitted that rent had been deposited by the petitioner with respondent no.1. The learned Rent Controller in this respect has observed as under:-

“The oral family partition, which was within the petitioner and the co-sharers was already within the knowledge of the respondent and the same was admitted by respondents no.2 and 3. It can not be opined that the family settlement was actually a partition by meters and bounds and the same was only for the purpose of realization of rent. Disposal of share by the respondents no.2 and 3 and petition is having nothing to do with the present petition as the same is qua the landlord and tenant. The suit filed by the petitioner is a separate civil suit, which is among co-sharers of the property, regarding part of which the present petition is pending. The suit for partition is among the legal heirs of the property and it cannot be stated to be having any bearing upon the present rent petition. The relationship of landlord and tenant is already admitted and now if there is any dispute regarding partition of the property between the co-sharers that cannot be agitated upon by the tenant. Tenant is only to rebut the presumption of bonafide need of the landlord and cannot divert the court towards the controversy, so arisen between the landlord and his co-sharers.”

Keeping in view the facts and circumstances of the case, it has

been rightly held by the learned Rent Controller that there is no requirement of amendment of the written statement.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 10.07.2018, passed by the learned Civil Judge (Jr. Division), Amritsar, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed.

22.10.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.