

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Revision No. 531 of 2017

Date of Decision: January 23 , 2019.

Yogesh Kumar and another

..... PETITIONER (s)

Versus

Gurjit Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rakesh Gupta, Advocate
for the petitioners.

Mr. Namit Gautam, Advocate
for the respondents.

LISA GILL, J.

The petitioners are aggrieved of order dated 03.01.2017 passed by the learned Rent Controller, Ludhiana whereby the petitioners' application for amendment of their petition, has been dismissed.

Brief facts necessary for the adjudication of the case are that, a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Rent Act') was filed by the petitioners-landlord seeking eviction of the respondents-tenants from demised premises as detailed in the petition. It was pleaded by the petitioners that they were in the business of manufacturing of power press in rented premises in Plot No.10509, Street No.2, Bhagwan Chowk, Janta Nagar, Ludhiana under the name and style of M/s Hari Om Industries. The

landlord of the petitioners had asked them to vacate the premises. Moreover, the petitioners wanted to separate their business and run the same in the demised premises. The tenanted premises with the respondent-tenant was considered more suitable for their business. The petitioners, it is stated, were not having any other property in the local urban area concerned nor they vacated any such property during the preceding two years. As such they required the demised premises for their bonafide personal necessity. Petition was contested by the respondents-tenants. Written statement was filed by the respondents denying the said averments.

An application was moved by the present petitioners seeking amendment of their petition to the extent of incorporation of the fact that the rented premises as mentioned in the petition had been vacated by them in the year 2014. Moreover, earlier also they had vacated some other rented premises in the year 2009. The petitioners further sought to incorporate in the pleadings that they were not occupying any such premises and had not vacated any such premises without sufficient cause after commencement of the Act.

The said application for amendment of the petition was dismissed by the learned Rent Controller, Ludhiana vide impugned order dated 03.01.2017 while observing that due diligence was not exercised by the petitioner. Facts as sought to be incorporated were very much in the knowledge of the petitioners.

Aggrieved therefrom, present revision petition has been filed.

Learned counsel for the petitioners vehemently argues that vacation of the rented premises in the year 2014 is a subsequent event. It could not have been mentioned in the petition, which was admittedly filed in the year 2011.

Factum of the petitioners earlier also being in occupation of tenanted premises and vacation of the same in the year 2009, is merely clarificatory. Furthermore, averment that the petitioners are not occupying any such premises and have not vacated the same without sufficient cause since the commencement of the Act, is essential for the just and proper adjudication of the case and causes no prejudice to the respondents. Learned counsel for the petitioners relies upon a Division Bench judgment of this Court in Raman Mal v. Faquir Chand and others, 1984(1) RCR(Rent) 275. It is thus prayed that the revision petition be allowed.

Learned counsel for the respondents, on the other hand, vehemently refutes the arguments as raised by learned counsel for the petitioners while submitting that the petitioners are trying to change the very nature and complexion of the petition. Once they had specifically pleaded that they had not vacated any such premises in the urban area for a period of two years prior to the filing of the petition, it is not open to the petitioners to now plead the period from the commencement of Act and incorporate such fact in the petition. It is further submitted that the factum of their vacating the tenanted premises in the year 2009 is not clarificatory in any manner. Moreover, there is no justification for the delay in filing of the application for amendment once the petitioners even chose to file replication to the written statement filed by the tenants. There is no reason as to why till the year 2016, the present application was not filed. He thus prays for dismissal of this petition.

I have heard learned counsel for the parties and have gone through the file.

Para 3(D) of the petition initially filed by the petitioner-landlord,

reads as under:-

“(D) That the petitioners required the tenancy premises for their own use and occupation. The petitioners have already requested the respondents to vacate the premises as the petitioners are in dire need of the premises. The respondents refused to do do and rather further threatened to reconstruct the roof of the premises even in possession of the petitioners in order to remove the evidence. After the passage of time the families of the petitioners grown. The petitioners are doing the business of manufacturing of power press in rented premises in Plot No.10509, Street No.2, Bhagwan Chowk, Janta Nagar, Ludhiana under the name and style of Hari Om Industries. The landlord of the petitioners has been asking to vacate the premises. The petitioners also wanted to separate their own respective business. The petitioner No.2 wants to run their business of manufacturing of power press and to open a show room in the tenancy premises. The petitioners have sufficient experience and funds for the show room of Power Press. More over, the where the property is situated in more suitable for business of Power Press as tenancy premises falls in the Hub of the Industrial City. The tenancy premises is very suitable for their above said business. The petitioners does not own any other property in the Local Urban area concerned nor they have vacated any such property during the preceding two years. As such the premises are bonafide required for the use of the petitioners.”

By way of an amendment, the petitioners seek to add paras 3(e) and 3(f), which read as under:-

“3(e) That the petitioners were earlier doing their business under the name and style of M/s Hari Om #3685, Chet Singh Nagar, Ludhiana being tenant under the owner/landlord Shri Sandeep Kalsi but

thereafter some dispute arose between the petitioners and the owner/landlord and the petitioners have to file a suit for permanent injunction. The owner/landlord was having great political influence and under such political influence he pressurized the petitioners to vacate the tenancy premises and used to harass the petitioners on one way or the other. The owner/land used all his political influence and got such property vacated from the petitioners in the year 2009. Thereafter, the petitioners had to take another property on rent to do their business. The petitioners got the property bearing No.10509, Street No.2, Bhagwan Chowk, Ludhiana on rent and started doing their business. But the said owner/landlord has also built up pressure upon the petitioners to vacate the premises and the owner/landlord in February, 2014 used to harass the petitioners on one way or the other and ultimately the owner/landlord has forcibly got the premises vacated from the petitioners by using their political influence. Thereafter the petitioners got one another premises bearing No.14428/2, Kalsi Nagar, Street No.3, Near Dada Motors, Ludhiana and started running their business of manufacturing of power presses and other mechanical items. There is no sale office or show room of the petitioners for sale of their products. The petitioners want to open their sale office/show room in the premises for sale of their products and the premises in question is the most suitable premises for this business as in the vicinity there are so many establishments/show rooms of such like machinery. Moreover, the entire area of Link Road/Dasmesh Nagar, Ludhiana is the known market for the machinery and machine tools.”

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“3(f) That the petitioners are not occupying any other such like premises and having not vacated any such like premises without sufficient cause after commencement of the Act.”

A Full Bench of this Court in Banke Ram v. Smt. Sarasvati Devi,

1977(1) RCR(Rent) 595 observed that though provisions of the Civil Procedure Code (for short, 'CPC') are not strictly applicable under the Rent Act, its principles needless to say are applicable. One of the main objects, it was observed, is to protect the tenant from the caprice and whims of the landlord to eject him without any valid or sufficient reason. This observation was made with reference to the provisions of Section 13(1) (2) (3) of the Rent Act. It is further observed that though it is difficult to lay down any rigid proposition of law in respect to the amendment of the pleadings, each matter is to be decided in the peculiar facts of the case. Conduct of the parties would be seen as well.

Learned Rent Controller in the present case, has wrongly observed that the proposed amendment relates to the year 2009 and the present petition has been filed in the year 2011. It is to be noticed that the vacation of the premises in the year 2014 could necessarily not have been mentioned in the petition filed in the year 2011, the same being a subsequent event. Insofar as the vacation of the tenanted premises by the petitioner-landlord in the year 2009 is concerned, the same is merely clarificatory of the case set up by the petitioner claiming personal bonafide necessity. The said application for amendment being moved after filing of the replication cannot by itself be a ground to reject the application. The petitioner can very well be put to terms.

In the instant case, it cannot be said that the petitioners are trying to change the complexion of their petition or are incorporating such facts which reflects concealment of facts at an earlier stage. A perusal of the amendment/additions sought to be made reveals that the petitioners merely seek to bring to the notice of the Court that they had earlier also been conducting their

work/business in tenanted premises which were vacated in the year 2009. The other is the declaration that they have not vacated such premises without sufficient cause after 'the commencement of the Act' instead of the averment of not having vacated such premises 'during the preceding two years'. By no stretch of imagination can it be concluded that the said amendment amounts to a change in the nature and complexion of the petition. Neither does it reflect any attempt of concealment of any facts on the part of the landlords at this stage or earlier, as is sought to be urged by learned counsel for the respondents. Such pleadings are indeed necessary for the complete and proper adjudication of the matter in controversy. Reference can be gainfully made to the decisions of a coordinate Bench of this Court in Sukhwinder Singh v. Darshan Lal, 2014(2) RCR(Rent) 345 and B.K. Aggarwal and another v. Avinash Grover and others, 2014(69) RCR (Civil) 368. There is no question of any prejudice or injustice being caused to the respondents-tenants by allowing such an amendment.

Keeping in view the discussion as above, this petition is allowed. Impugned order dated 03.01.2017 passed by the learned Rent Controller, Ludhiana is set aside.

Amendment of the petition as prayed for by the petitioner-landlord is allowed, subject to the petitioners depositing a sum of ₹8,000/- as cost before the learned Rent Controller, Ludhiana to be handed over to the respondents.

(LISA GILL)
JUDGE

January 23 , 2019.
'om'

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No