

CR No. 5350 of 2018 (O&M)

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

CR No. 5350 of 2018 (O&M)

Date of Decision: September 13, 2019

Abdul Rashid

..... Petitioner(s)

Versus

Mohd. Munir

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arun Jindal, Advocate and
Mr Kanish Jindal, Advocate
for the petitioner.

None for respondent.

LISA GILL, J.(oral)

None has appeared on behalf of the respondent despite service.

None had appeared on his behalf on the last date of hearing as well.

This revision petition has been filed by the petitioner being aggrieved of order dated 30.04.2018 (Annexure P-4), passed by the learned Rent Controller, Malerkotla, whereby the application under Order 6 Rule 17 read with Section 151 CPC, moved by the respondent-landlord for amendment of the petition has been allowed.

Respondent-landlord filed an eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, seeking ejectment of the petitioner-tenant on the ground of non payment of rent, change of user and bona fide personal necessity. By way of the application under Order 6 Rule

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17 read with Section 151 CPC (Annexure P-3) the respondent-landlord sought to amend the petition while adding the following ground:-

“That respondent has ceased to occupy the shop in dispute for a continuous period of about one year without any reasonable cause. He has started a new garments showroom w.e.f. 20.10.2016 in the name and style of 'Fashion Villa' at Le-Plaza Mall, Bus Stand to College Road, Malerkotla.”

Learned Rent Controller vide the impugned order dated 30.04.2018 (Annexure P-4) while observing that the proposed amendment is necessary for determining the controversy in hand and to avoid multiplicity of the litigation and to avoid any injustice to either of the parties, permitted the amendment in the petition, while further observing that the matter was still at the initial stage.

Learned counsel for the petitioner vehemently argues that learned Rent Controller, Malerkotla has grossly erred in allowing the application as the said ground of the petitioner-tenant having ceased to occupy the shop in dispute cannot be incorporated at this stage and neither can this ground be available to the respondent-landlord with effect from the date of the application i.e. 18.11.2017. It is incumbent upon the landlord and a requirement of the statute that this ground if at all had to be pleaded in relation to the date of filing of the petition. It is not the case of the respondent-landlord that the petitioner-tenant ceased to occupy the shop in dispute for a continuous period of four

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months prior to the filing of the petition. Therefore, this application seeking amendment of the plaint should have been rejected outrightly. Moreover, the matter was not at the initial stage. The respondent-landlord had testified at that stage. It is, thus, prayed that this petition be allowed and the impugned order dated 30.04.2018 be set aside.

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

Filing of the petition seeking ejectment of the petitioner on 02.02.2016 on the ground of non-payment of rent, change of user and personal bonafide necessity is not in dispute. Respondent-landlord in the application dated 18.11.2017 has pleaded that the petitioner had not been opening the shop in dispute for the last about one year and on 15.11.2017, the landlord along with his cousin brother found out that the petitioner was running a garment showroom at some other premises as mentioned in the application. The landlord, on inquiry, it is stated, came to know that the petitioner-tenant was running the said showroom on the new premises since 20.10.2016.

It is relevant to note that as per Section 13 of the East Punjab Urban Rent Restriction Act, 1949, one of the grounds on which ejectment can be sought is of the tenant ceasing to occupy the premises for a continuous period of four months without reasonable cause. The relevant provision reads as under:-

“13. Eviction of tenants.--

(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this Section, 1[or in pursuance of an order made under Section 13 of the Punjab Urban Rent Restriction Act, 1947, as subsequently amended].....

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied.....

(v) that where the building is situated in a place other than a hill-station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied he shall make an order rejecting the application”

The petitioner is pleaded to have started a new garments showroom w.e.f. 20.10.2016 in the name and style of 'Fashion Villa' at Le-Plaza Mall, Bus Stand to College Road, Malerkotla. Needless to say, the period of four months, for which the tenant ceases to occupy the premises in question runs and relates to the date of filing of the ejectment petition and not the date of filing of the application as is the apprehension raised by the learned counsel for the petitioner. In the given facts and circumstances of the case, allowing the amendment in the petition in order to avoid multiplicity of the litigation and for determining the controversy, cannot be faulted with.

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Learned counsel for the petitioner is unable to point out any illegality, perversity or infirmity in the impugned order 30.04.2018 (Annexure P-4), passed by learned Rent Controller, Malerkotla, which calls for interference by this Court in exercise of its revisional jurisdiction.

No other argument has been raised.

Keeping in view the facts and circumstances as above, I do not find any ground to interfere in the impugned order 30.04.2018, passed by learned Rent Controller, Malerkotla, in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to costs.

September 13, 2019

Sunil

(Lisa Gill)
Judge

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