

CR No.7040 of 2018 (O&M)

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

CR No.7040 of 2018 (O&M)
Date of decision: 10.09.2019

Sharad Aggarwal

.....Petitioner

versus

Manjit Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Kiran Kumar, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision under Article 227 of the Constitution of India, tenant has laid challenge to order dated 03.01.2018 of the Rent Controller, Jalandhar, dismissing his appeal under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of his reply.

Briefly, eviction petition filed by the respondent is pending before the Rent Controller. Petitioner-tenant moved an application under Order 6 Rule 17 read with Section 151 CPC for amendment of his reply to add that earlier to the instant eviction petition, landlord had filed three similar petitions, which on tendering rent by the petitioner-tenant were dismissed for want of prosecution, without deciding the issue of title of the demised shop. In the present eviction petition also, petitioner-tenant has raised dispute about title of respondent-landlord. Therefore, it was

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mandatory for the Rent Controller to first decide the issue of title of the demised property by permitting the petitioner to amend his reply and then proceed further.

Application of the petitioner was contested by the respondent, which after hearing both the sides was dismissed vide impugned order dated 03.01.2018.

Learned counsel for the petitioner *inter alia* contends that Rent Controller dismissed the application without appreciating that title of the demised shop was disputed by the petitioner-tenant. Therefore, it was mandatory for the Rent Controller to permit him to amend his reply and decide issue of title before proceeding further.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

No question of law much less substantial has been raised in this revision.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the impugned order.

It is needless to mention here that in case, respondent-landlord would not be able to prove his title over the demised premises,

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in that eventuality, the Rent Controller would definitely dismiss her eviction petition. Withdrawal of earlier eviction petitions filed by the respondent against the petitioner or dismissal of the same for want of prosecution after tendering rent by the petitioner-tenant *ipso facto* proves that petitioner always admitted title of the respondent over the demised shop and for that reason, he tendered rent, otherwise he would not have done so.

Dismissed.

September 10, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No