

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

**Civil Revision No. 9045 of 2017 (O&M)
Date of Decision: May 02, 2019**

Dinesh Kumar Gupta

.....PETITIONER

VERSUS

M/s Lajpat Rai and Bros.

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.K.Bhatti, Advocate
for the petitioner.

Mr. Varun Sharma, Advocate
for the respondent.

SURINDER GUPTA, J.(Oral)

Heard.

Learned counsel for the petitioner submits that the respondent filed petition seeking ejectment of the petitioner from the demised premises on the ground of non-payment of rent and ceased to occupy the demise premises for a period of more than six months without any sufficient cause. Before the service of petitioner could be effected, he amended the petition to incorporate the ground that the demised premises has become unfit and unsafe for human habitation. Thereafter, service of revision petitioner was effected and he put in appearance and filed reply. As he had not been supplied the copy of amended petition, the written statement was filed for unamended petition. This fact came to the notice

of the petitioner at later stage and he moved application (Annexure P-7) seeking permission to file written statement to the amended petition which was declined.

Learned counsel for the respondent has argued that the petitioner was well aware of the amended petition and deliberately avoided to file reply to the plea of respondent that building has become unfit and unsafe for human habitation.

On perusal of petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 filed by the respondent, I find that initially he had sought the ejectment of the respondent/petitioner on the ground of non-payment of rent and that he ceased to occupy the demised premises for a period of more than six months without any sufficient cause. These grounds were mentioned in para no. 2(a) and 2(b) of the petition. Later on it incorporated para 2(c) to the effect that demised shop has become unfit, unsafe for human habitation. The respondent filed reply to paras no. 2(a) and 2(b) but no reply was filed to the para 2(c). If the revision petitioner could answer the plea taken by respondent in para no. 2(a) and 2(b), there was no bar for him to reply the plea taken by the respondent in para 2(c). This indicates that the contention of petitioner that he was not supplied the copy of amended petition has merits.

Learned Rent Controller instead of looking into this aspect, declined the application simply on the ground that there is lapse on the part of the petitioner/tenant and his counsel and they can not be allowed to fill up the laucane at this stage when the evidence of landlord has been concluded. The above order appears to have been passed without

enquiring the matter as to whether the plea raised by the revision petitioner that he was not supplied the copy of amended petition has any substance. No prejudice will be caused to the respondents if the petitioner is allowed to file reply to the grounds taken in para 2(c) of the petition. It has also come to my notice that there is no specific issue framed by learned Rent Controller that the premises has become unfit, unsafe for human habitation. However, that issue can be covered under issue No. 3 which is as follows:

“Whether the respondent is liable to be evicted from the demised premises as prayed for ? OPP.”

As a sequel of above my discussion, this appeal has merits and the same is allowed.

Interim order dated 01.02.2019 is vacated and learned Rent Controller is directed to proceed further by allowing opportunity to the revision petitioner to file reply to the amended petition.

(SURINDER GUPTA)
JUDGE

May 02, 2019.
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***