

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

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CR No.1844 of 2019 (O&M)
Date of decision: 18.03.2019

Jarnail Singh

...Petitioner

Versus

Dera Baba Narsingh Dass Ji

...Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Gurbachan S. Bhatia, Advocate for the petitioner.
Mr. SK Singla, Advocate for the caveator/respondent.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 22.02.2019 (Annexure P5) whereby application under Order 6 Rule 17 CPC for amendment of reply/written statement filed by the petitioner/tenant has been dismissed.

Counsel for the petitioner would argue that in the original written statement/reply (Annexure P2) in para 3 of the preliminary objections, petitioner had raised averments reproduced in para 2 of the grounds of petition. By way of proposed amendment, the petitioner wanted to add certain facts in para 3 of the preliminary objections but the same are just explanation/detailed description of the facts already averred in the original reply, therefore, no prejudice is likely to be caused to the respondent in case amendment in the written statement is allowed necessary for complete and effective adjudication of the matter in controversy. It is further argued that amendment of written statement/reply stands on a better footing than that of the petition/plaint and in absence of any allegation that the proposed amendment is mala fide, order passed by the Rent Controller rejecting application for amendment cannot be allowed to sustain and may be set aside.

Counsel representing the caveator/respondent would argue that the application for amendment of the written statement is nothing but to delay culmination of the eviction proceedings pending for the past few years. The petitioner has neither denied relationship of landlord and tenant between the parties nor can he seek adjudication of question of title

or issue of mahantship of dera in proceedings pending before the Rent Controller, which is a fora created with limited jurisdiction to decide the cases filed under East Punjab Urban Rent Restriction Act, 1949 expeditiously. It is further argued that the petitioner has relied upon rent receipts to prove payment of rent and the same have been issued by a committee of seven members of which Anil Kumar Goyal @ Anil Modi is the President through whom the eviction proceedings have been initiated.

The application for amendment of the written statement/reply has been filed at the stage when the case is pending for evidence of the petitioner. The present application was filed by the petitioner after availing several dates for adducing evidence. As has been rightly argued by counsel for the caveator, neither the question of ownership nor of mahantship of the dera can be decided by the Rent Controller in exercise of its limited jurisdiction. Counsel for the petitioner has failed to advance any convincing arguments that the facts sought to be added by way of amendment are either an explanation of the facts already pleaded or the same are necessary for complete and effective adjudication of the matter in controversy. He has not disputed that the petitioner has not denied relationship of landlord and tenant between the parties and has relied upon rent receipts issued by a committee of which Anil Kumar Goyal @ Anil Modi is the President to manage the affairs of Dera Baba Narsingh Dass Ji. That being so, I do not find an error much less perversity in the order impugned warranting intervention in exercise of jurisdiction under Article 227 of the Constitution of India.

In view of what has been discussed hereinbefore, finding no merit, the petition fails and is accordingly dismissed in limine.

18.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No