

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

**Civil Revision No.1994 of 2019 (O&M)
Date of Decision:March 25, 2019.**

Ravinder Kumar and others

.....PETITIONER(s).

VERSUS

Ranjit Singh Gill

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anuj Raura, Advocate
for the petitioner (s).

Mr. Rajeev Gupta, Advocate
for the caveator-respondent.

SURINDER GUPTA, J.

Heard.

Respondent-landlord filed a petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (later referred to as the Rent Act) seeking ejectment of petitioners-tenants from the demised premises i.e. ground and first floor of SCF No.83, Sector 24-C, Chandigarh on the plea of personal bona fide necessity and non-payment of arrears of rent. In para 6 of the rent petition, he pleaded about the requirement as per Section 13(3)(a) (i) of the Rent Act as follows:-

“That the petitioner also states that he and the other co-owners do not own any other building in Chandigarh and he requires the entire ground floor for own use and occupation, therefore, the present petition is maintainable in terms of provisions of Section 13 of

Punjab Urban Rent Restriction Act. The petitioner also states that he and the other co-owners did not occupy or got vacated any such or similar building in Urban Area of Chandigarh. The petitioner is also not in possession of any other non-residential premises in the urban area of Chandigarh nor he got vacated any such non residential premises in the urban area of Chandigarh after the enforcement of the Rent Restriction Act.”

Respondent-landlord moved application to amend his petition and to add the plea in para 6 that he do not own or has vacated any non-residential premises in the urban area of Chandigarh except Industrial Plot No.227, Industrial Area Phase-1, Chandigarh which can only be used for industrial purposes and no other commercial activity was allowed in that plot. The amendment sought was allowed by learned Rent Controller with the observations as follows:-

“The present petition is at the stage of petitioner evidence but in case the petitioner is able to mention the said fact by amending the petition, then no prejudice would be caused to the respondent as the counsel for the respondent shall have further opportunity to cross-examine the petitioner witnesses. Further more, the respondent would have opportunity to rebut the said factum by leading evidence in this regard. Now, after perusing of the file, this court is of the opinion that the amendment sought by the petitioner goes to the roots of the case and would be very relevant for just adjudication of the present case and would be helpful for proper disposal of the present case at the final stage. Therefore, keeping in view that the said amendment is necessary for just determination of the present case, the present amendment application is allowed. The respondent must

be compensated with costs. Hence, the present application is allowed subject to payment of Rs.2500/- cost by the petitioner to the respondent. The amended petition is already on record. Now the case is adjourned to 08.03.2019 for filing amended written statement by the respondent and for payment of costs by the petitioner.”

Learned counsel for the petitioners has argued that in the original petition, the respondent has pleaded that he does not own any similar building but when in his cross-examination, he was confronted with the fact that he owns plot No.223 Industrial Area Phase-1, Chandigarh, he admitted this fact and in order to fill up the lacuna, sought amendment of the petition, which could not be allowed by the Rent Controller. This fact was in his knowledge at the time of filing of the petition and is not a subsequent event. In support of his contention, he has relied on the observations of a Co-ordinate Bench in case of **Arjun Chand Vs. Smt. Shama Joshi 2011 (2) Rent LR 55.**

As per the requirement of Section 13 of the Rent Act, a landlord has to plead that he does not possess or has vacated such premises for which the ejectment has been sought. The respondent-landlord has alleged in his application that industrial plot in question is in possession of tenants, as such, he was not required to plead this fact. However to clarify absence of pleading in petition about ownership of respondent-landlord qua this plot as stated by him in his cross-examination, he came up with the amendment application.

The amendment of pleading, as sought by the respondent-landlord, is merely explanatory and does not amount to filling up of lacuna.

He has explained by way of amendment that the plot he owns in the industrial area, is not permitted to be used for starting the business of departmental store as the same is meant only for industrial activities and is in possession of tenants.

The case is still at the stage of evidence of respondent-landlord and petitioners-tenants shall have the opportunity to prove that the averment incorporated by way of amendment is not correct. So far as the observations in case of *Arjun Chand Vs. Smt. Shama Joshi (supra)* are concerned, same were made keeping in view the peculiar facts and circumstances of that case which are not applicable to the facts of this case.

On perusal of the impugned order passed by the Rent Controller, I find no legal or factual infirmity therein calling for any interference. This revision petition has no merits.

Dismissed.

March 25, 2019.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:* *Yes/No

Whether Reportable:* *Yes/No