

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3134-2019 (O&M)

Date of decision: 01.10.2019

Ghansham Dass

...Petitioner

Versus

Dhania and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Amandeep Kakkar, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

1. This revision petition has been filed seeking to challenge the order dated 14.03.2019 passed by the Rent Controller, Ferozepur whereby the application filed by the petitioner under Order 14 read with Section 151 CPC for framing an additional issue, has been dismissed.
2. Learned counsel for the petitioner herein submits that an eviction petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 had been filed by the respondents-landlord on the ground of personal necessity. In para 3 of the ejectment application, it has been stated that "*the present rate of rent payable by the respondent is ₹ 500/- per month.* " A written statement was filed in which it had been stated that the rate of rent was in fact ₹ 100/- per month and not ₹ 500/- as sought to be pleaded. It is submitted that if there was a dispute regarding the rate of rent, the Rent Controller ought to have assessed the rent by framing an issue.

3. Admittedly, eviction was sought on the ground of personal necessity claiming the rent to be ₹ 500/- per month with a further averment “ *However, he has paid entire rent upto date and no rent is due against the respondent*”. In para 5, reasons were detailed as to why the premises was sought to be vacated. The reasons stated therein were only for personal necessity and there was no question regarding any arrears of rent and in the written statement denied the rate of rent and thereafter, replication was filed reiterating the fact that the rate of rent payable by the tenant petitioner is ₹ 500/- per month and not ₹ 100/- as claimed. However, it was specifically mentioned that the applicant is not claiming any rent in the ejectment application and that the rent was paid upto date. Thereafter, on 22.01.2019 the petitioner herein filed an application under Order 14 read with Section 151 CPC seeking an additional issue to be framed regarding rate of rent, which application was contested. The Rent Controller, dismissed the application on the ground that the same had been preferred after an inordinate length of time when the case had been fixed for rebuttal evidence or in the alternative for final arguments, while also stating that since the arrears of rent have not been claimed in the ejectment application, there would be no necessity for framing the issue. Aggrieved against the said order, the instant revision has been filed.

4. Learned counsel appearing on behalf of the petitioner vehemently argues that the rate of rent was denied in the written statement itself to be ₹ 500/- per month, and in fact it was only ₹ 100/- per month and, therefore, an issue ought to have been framed which would determine the very root of the controversy between the parties.

5. I have heard learned counsel for the parties and I do not find any ground

to interfere in the order passed by the Rent Controller. Admittedly, an ejectment petition had been filed claiming rent to be ₹ 500/- per month but the main ground for ejectment was personal necessity. It had specifically been pleaded that no arrears of rent were payable and this was also reiterated in the replication that was filed. The replication was filed as far back as 08.02.2017. On filing of the replication, immediately thereafter the issues were framed. Whenever and wherever from the pleadings of parties an issue of facts or law arises, the law places an obligation upon the Court to frame such an issue and to pronounce judgment thereupon. However, an issue would only arise when a material proposition of fact or law is affirmed by one party and denied by other. Moreover, issues have to be framed to determine the controversy between the parties and the relevant issue would be whether the landlord-respondent is entitled to seek eviction on the ground of personal necessity. Framing of an issue on the rate of rent is not material, since the respondents landlord themselves have stated that no rent is due nor is he claiming any. Moreover as held in ***Harji vs. Mool Chand, 2001(2) RCR (Civil) 29*** while dealing with the consequence of non framing of issues, it was held that the party must establish the prejudice caused on account of non framing of an issue. It was held that *“Prejudice is one of the essential ingredients of equity. A party would be obliged to show resultant prejudice suffered by it as a consequence of non framing of a particular issue by the Court. The prejudice must be shown in regard to opportunity to lead evidence, effect thereof on the decision on material controversy in the suit and denial of reasonable opportunity in that behalf.”*

6. In the instant case, the issue sought to be framed is not relevant to the case in hand. In the instant ejectment application, the landlord is seeking

eviction on the ground of personal necessity and not on the ground of arrears of rent, therefore, there would be no necessity to frame any issue regarding the arrears of rent. No prejudice is likely to be caused to the petitioner on this account.

7. Finding no merit in the instant revision, the same is dismissed.

01.10.2019

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.