

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-4120-2019 (O&M)

Date of Decision: 08.07.2019

Nand Kishore

.... Petitioner

Versus

Smt. Rani Devi

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Vivek Gupta, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

The petitioner-tenant has preferred the instant revision against the order dated 16.05.2019 (Annexure P-3) whereby the learned Rent Controller, Patiala, dismissed his application under Order VI Rule 17 read with Section 151 CPC for amendment of written statement.

Heard.

Learned counsel for the petitioner *inter alia* contends that the petitioner only wants to take legal objection qua maintainability of eviction petition, on account of non-pleading of essential ingredients of Section 13 of the East Punjab Urban Rent Restriction Act, 1949, which would not prejudice the rights of respondent-owner.

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

The valuable right accrued to landlord-respondent cannot be

permitted to be curtailed by way of amendment sought by the petitioner-tenant. For ready reference, para 3 of impugned order (Annexure P-3) is reproduced hereunder:

“3. Perusal of the file reveals that the present petition has been filed by the petitioner Rani under Section 20 of the Punjab Rent Act, 1995 or in the alternative petition under Section 13 of the East Punjab Urban Rent Restriction Act, seeking eviction of the respondent from the demised shop. After filing of written reply by the respondent, the issues in the case were framed on 25.9.2017 and thereafter, the case was slated for evidence of the petitioner and evidence of the petitioner was concluded on 9.4.2018 and thereafter, after availing 13 effective opportunities for leading respondent evidence, the present application was moved by the respondent, seeking amendment in the written reply. The respondent has failed to show due diligence on his part as to why the alleged objection was not taken earlier, which was already in the knowledge of the respondent as well as his counsel. Moreover, evidence of the petitioner has already been concluded and the case is pending for cross-examination of respondent witnesses. Allowing the amendment at this stage, would result in denovo trial of the case, which is not permissible under law. The case law cited by the learned counsel for the respondent is not disputed, but the same is not applicable to the facts of the present case. Accordingly, in view of the arguments advances and fact and circumstances stated above, this Court is of the considered view that no such amendment can be allowed in the written reply at this highly belated

stage, as the proposed amendment was well within the knowledge of the respondent and his counsel at the time of filing his written reply. Hence, the application being bereft of any merits, is hereby ordered to be dismissed. Now, to come up on 15.7.2019 for entire evidence of the respondent at own responsibility, subject to last opportunity.”

The findings given by the learned Rent Controller, makes it abundantly clear that the petitioner-tenant wants to get the trial *de novo*. The petitioner even after availing 13 effective opportunities to lead his evidence sought amendment in his written statement which would definitely cause prejudice to the valuable legal right accrued to respondent-landlord.

In view of the above, this Court finds no illegality or perversity in the impugned order.

The instant revision, being meritless is dismissed.

July 08, 2019
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No