

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6251 of 2019(O&M)
Date of Decision: 03.10.2019.

Satpal

.....Petitioner

Versus

Mona Sood

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

LISA GILL, J(Oral).

This revision petition has been filed by the petitioner, challenging order dated 27.08.2019, passed by the learned Rent Controller, Ludhiana, dismissing the application under Order 6 Rule 17 read with Section 151 CPC, whereby the petitioner sought to amend his written statement.

Respondent-landlady, in this case, filed an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, with the averments that the demised premises along with five other shops forming part of the same building were required in order to enable the landlady's son to establish a food junction/eating place, on the premises after removing all the intervening walls. Three of the shops are stated to be owned by the landlady and three by the HUF Sanjay Sood and sons. It is mentioned that the landlady, is in possession of one of the shops which is being used as a store. Details of the other commercial property owned by the landlady, her husband/ family/HUF, is duly mentioned in the petition, though it is sought to be explained that the said property, is not suitable for running a food junction/eating place.

In the written statement filed by the petitioner, it is specifically averred that the shop which was in possession of the landlady, was let out to one Jatin Khurana. Personal *bona fide* necessity of the landlady was denied to be existing. It is stated in the third preliminary objection of the written

statement, that the landlady is the owner of other commercial property in the urban estate, which can be put to use by them. It is further stated that the landlady's son was already engaged in other business and was the director of one M/s BSA Infrastructure Private Limited. The petitioner, thereafter sought to amend the written statement. Application dated 01.02.2019, attached as Annexure P-3, with this petition was filed with the averments that certain subsequent events had cropped up which necessitated amendment of the written statement.

The said application, has been dismissed by the learned Rent Controller, Ludhiana, vide impugned order dated 27.08.2019.

Aggrieved therefrom, the present petition has been filed.

Learned counsel for the petitioner vehemently argues that amendment of the written statement is necessary for the proper adjudication of the case. Petitioner seeks to incorporate the fact that six shops are owned by the landlady, five of them are on rent and the sixth one which is in possession of the landlady has been given out on rent to one Jatin Khurana and the same is being used for running a food joint in the name and style of M/s The Urban Bhukkad (Food Junction) and Roll it UP and Jar O Bar; besides stating that the landlady's son is running the business of M/s BSA Infrastructure Private Limited, being its director. Apart from the above, the petitioner seeks to incorporate that other commercial properties are owned and possessed by the petitioner, her husband and son in the concerned urban estate. He relies upon the judgements of the Hon'ble Supreme Court in **Ram Kumar Banwal Vs. Ram Lakhan (dead) 2007 (3) R.C.R (Civil) 279**, **Hasmat Rai and another Vs. Raghunath Prashad, 1981 (3) SCC 103** and **Amarjit Singh Vs. Smt. Khatoon Suamarain 1986 (4) SCC 736**, to submit that the amendment of the written statement in this case should be permitted

as it is vital for the just adjudication of the petition. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner, at length. However, I do not find any ground whatsoever to interfere in the impugned order dated 27.08.2019, passed by the learned Rent Controller, Ludhiana.

A perusal of the file reveals that the landlady has clearly mentioned all the commercial properties owned by her, her husband and son in the petition, itself. In respect to the property No. 174-L, Model Town, Ludhiana, it is mentioned in para no.2 (b) of the petition, that the ground floor of the said building was being used by her husband, but the upper portion of that building is not suitable for running a food junction/eating place. Therefore, letting out of the said property, in any case, is irrelevant. In respect to the letting out of the 6th shop, which was in possession of the landlady to one Jatin Khurana, learned counsel for the petitioner is unable to deny, that the same is duly mentioned in the written statement filed by the petitioner attached as Annexure P-2 with this petition. It is fairly stated by learned counsel for the petitioner that in the replication filed to the written statement, it is mentioned by the landlady, that her son himself has started running a small eatable joint in this shop, but it is not sufficient to run a complete food junction. Letting out of the premises to Jatin Khurana, is duly mentioned in the written statement. Therefore, there is no requirement of further amendment of the written statement to the extent that a food joint, is being run by Jatin Khurana, on the said premises. The petitioner, would be well within his rights to lead evidence in this respect on the basis of the pleadings already available on record. Thirdly, the objection of the landlady's son running the business of M/s BSA Infrastructure Private Limited, as its director, is also duly mentioned in the written statement.

In this view of the fact, it is undeniable that all the “subsequent events”, which the petitioner seeks to bring to the fore are already mentioned in the written statement. There is indeed no requirement for the amendment of the written statement in this case. Learned Rent Controller, Ludhiana, has of-course proceeded to observe that the tenant seeks to introduce new facts by way of this amendment, which is however not borne out from the record. The amendment application does not mention any additional commercial properties belonging to the landlady, apart from those which are already mentioned in the written statement. Therefore, the said observations are not warranted. However, the ultimate decision of the application is upheld, though, for the reasons as mentioned above. Judgements relied upon by learned counsel for the petitioner are clearly not applicable to the facts and circumstances of the case. Those are the cases, wherein existence of other properties owned by the landlord came to the fore at a later stage and where some of the premises in possession of the landlord, were again let out during the pendency of the petitions filed by them.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned order 27.08.2019 passed by the learned Rent Controller, Ludhiana, which calls for any interference in exercise of revisional jurisdiction by this Court.

No other argument has been raised.

Present petition is, accordingly, dismissed with no order as to costs. Needless to say, none of the observations in this order are a reflection of any opinion on the merits of the case and the same are confined for the purpose of the decision of this petition.

03.10.2019
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.