

Civil Revision No.6647 of 2019

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

Civil Revision No.6647 of 2019
Date of Decision: 22.10.2019

Jaspal Singh

...Petitioner

Versus

Rajinder Kumar Goyal and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. B.S. Bhalla, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision under Article 227 of the Constitution of India, petitioner-tenant has laid challenge to order dated 21.09.2019 (Annexure P-5) of the Rent Controller, whereby his application under Order 6 Rule 17 CPC for amendment of written statement was dismissed.

Briefly, in eviction petition filed by respondent No.1 under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short the 'Act') against petitioner and proforma respondent No.2, they took a plea that after the death of original landlord Jagan Nath, nobody claimed rent of the demised shop from them since June, 1995.

On completion of pleadings, the learned Rent Controller framed necessary issues and parties were put to trial.

After conclusion of evidence by respondent No.1-landlord in

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affirmative, petitioner in support of his case tendered his affidavit Ex.RW1/A as his examination-in-chief, wherein also, he testified completely in consonance with his pleadings taken in the written statement. He was cross-examined by counsel for respondent No.1-landlord, wherein also he testified that he does not remember to whom he made payment from January, 1994 to May, 1995. Thereafter, to the surprise of respondent No.1-landlord, petitioner moved application under Order 6 Rule 17 CPC for amendment of written statement, whereby he wanted to take the plea that they did not pay rent after 1984.

Learned Rent Controller after hearing both the sides, dismissed his application vide impugned order dated 21.09.2019.

Learned counsel for the petitioner *inter alia* contends that learned Rent Controller has illegally held that petitioner wished to withdraw his earlier pleadings, though he never intended so, rather he only wanted to correct a typographical mistake by way of amendment. Even if the amendment sought was inconsistent to the earlier pleadings of the petitioner, in that eventuality also, learned Rent Controller ought to have permitted the petitioner to amend his written statement. In support of his contentions, learned counsel relied upon ***Baldev Singh and others v. Manohar Singh and another***, 2006(3) R.C.R.(Civil) 844.

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

Proviso to Order 6 Rule 17 CPC is reproduced hereunder for

ready: -

“Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

From the above provision, it is evident that amendment can only be allowed prior to commencement of trial and not thereafter. In the instant case, admittedly, issues were framed. Even respondent No.1-landlord concluded his evidence. Petitioner also filed his affidavit as his examination-in-chief in his affirmative examination. He was even cross-examined. Therefore, it is apparent that petitioner had moved application for amendment of his written statement after much delay of commencement of trial. Thus, his application has rightly been dismissed by learned Rent Controller being not maintainable.

Correction of the year by way of amendment from 1995 to 1984 by the petitioner in para No.5 of his written statement definitely amounts to withdrawal of his earlier plea and introduction of altogether contrary plea that he did not pay any rent after 1984 on death of original owner Jagan Nath, which would change entire nature of the case.

Facts and circumstances of the authority referred to above by learned counsel for the petitioner are not identical to the facts of the present case. Therefore, no benefit of the same can be given to the petitioner.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

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Learned counsel for the petitioner has not been able to show any such infirmities in the order of the learned Rent Controller.

Dismissed.

October 22, 2019
R.S.

Whether speaking/reasoned

Whether Reportable

(RAMENDRA JAIN)
JUDGE

Yes/No

Yes/No