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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8138-2019 (O&M)

Date of Decision: December 17, 2019

Harwinder Singh

.....Petitioner

Versus

Rupinder Singh

.....Respondent

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Sharad Mehra, Advocate
for the petitioner.

.....

NIRMALJIT KAUR, J. (ORAL)

The present revision petition is filed against the order dated 28.11.2019 vide which the application for amendment of the written statement was dismissed.

Learned counsel for the petitioner while praying for liberty to amend the written statement to the extent as mentioned in the said application submitted that the Court has recorded wrong facts while dismissing the application. It is contended that his specific plea was that the respondent-landlord had sold one of the shop on 12.05.2017 and the said sale was during the pendency of ejectment petition and after filing of the written statement by the petitioner-tenant but the Rent Controller dismissed his application by observing that the petitioner-tenant was seeking amendment in the written reply to the effect that the respondent-landlord was having other commercial property near to the demised premises and this fact was concealed by the respondent in his rent petition.

Heard.

A perusal of the application shows that the petitioner did not only seek amendment to the effect that the respondent-landlord had sold one of the shops during the pendency of the rent petition but also to the effect that he had other shops as well which was concealed by the landlord. Therefore, it is not entirely correct that the Rent Controller noticed wrong facts. However, as the fact about the sale of the shop was not noticed, therefore, this Court needs to see as to whether the order should be set aside on this ground alone or not. On a specific query to the learned counsel for the petitioner as to whether the respondent-landlord was cross-examined on the question of sale of the shop, the answer is in the affirmative. It is admitted that a specific question as to whether the respondent-landlord had sold the shop or not was put to the respondent-landlord. It is also admitted that the respondent-landlord did not conceal the said fact and admitted in his cross-examination that he did sell the shop in question. Thus, this Court does not deem it necessary that any amendment of the written statement is required. The argument that he cannot make any submission or objection beyond pleadings does not really matter in the facts of the present case as the petitioner-tenant was not expected to raise the same as it arose only after filing of the written statement. The petitioner-tenant, in any case, has already raised the objection in his cross-examination which also shows that the said fact came to his knowledge before the cross-examination. Therefore, the appropriate stage was to seek amendment, if at all, before the cross-examination. Now that he has already been cross-examined on the same and it has already been answered by the respondent-landlord, this

statement especially when the respondent-landlord has also explained in detail the reason in his reply as to why the said shop was sold. This Court has no doubt that the trial Court shall take into consideration the effect or bearing, if any, of the sale of the said shop, in accordance with law and if relevant.

December 17, 2019
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(NIRMALJIT KAUR)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |