

In the High Court of Punjab and Haryana at Chandigarh

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CR-5644-2017 (O & M)

Date of Decision: January 16, 2020

HARI KRISHAN

....PETITIONER

VERSUS

ASHOK KUMAR KALRA AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Om Pal Sharma, Advocate for the petitioner.

Mr. Vaibhav Sehgal, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the order dated 02.08.2017 whereby the application of the respondents for amendment in the plaint has been allowed.

Learned counsel for the petitioner contends that the amendment ought not to have been allowed as it is against the admission of respondent No.1-landlord in his cross-examination and it was allowed at a belated stage when the evidence had been closed and the case was fixed for arguments.

Learned counsel for the respondents, however, contends that the amendment was sought only to plead the basic ingredients of Section 13 (3) (a) (i) of the East Punjab Urban Rent Restrictions Act, 1949 ('Act' - for short). No prejudice has been caused to the petitioner by the amendment and he will get adequate opportunity to lead evidence with regard to his case. He has relied upon the judgments of Coordinate Benches of this Court in the cases of

Sukhwinder Singh versus Darshan Lal, 2014 (2) L.A.R. 225; Pawan Kumar versus Ravinder Singh, 2018 (2) Law Herald (P&H) 989; Mohan Lal versus Rakesh Kumar Bhakoo and another, 2006 (1) L.A.R. 666; Raman Mal versus Faquir Chand and ors, 1984 (1) Rent Control Reporter 275 and Madhi Mal versus Sat Pal, 1979 (1) Rent Control Reporter 414.

Heard.

The respondents had filed a petition for eviction of the petitioner/tenant on the ground that the premises are required for the bona fide use of the son of respondent No.1, namely Amit Kumar Kalra. In the petition, it had been pleaded by respondent No.1 that he does not own any other property in the concerned urban area nor he has any such property vacated after the commencement of the Act. The respondent No.1 had only sought the amendment to the extent that his son namely Amit Kumar Kalra does not own any such property and no such property had been vacated by him within the limit of the concerned Municipal Corporation.

The Rent Controller while allowing the application has relied upon the judgment of this Court in the case of Gurnam Singh versus Roshan Lal, 2009 (1) PLR 562 wherein application was filed under Section 13-A for eviction of the tenant from the shop. The landlord after the evidence had been led and the arguments had been heard, had filed an application for amendment on the ground that Section 13-A would not be applicable to non-residential premises and he had sought an amendment to seek eviction on the basis of Section 13 of the Act instead of Section 13-A of the Act. The amendment had been allowed by this Court by holding that the Rent Controller would not be strictly bound by the provisions of Code of Civil Procedure. Reference can also

be made to the judgment of the Coordinate Bench of this Court in the case of **Sukhwinder Singh versus Darshan Lal (supra)** wherein the petitioner-landlord in the petition had not pleaded the ingredients that he was not in possession of another premises in the urban area nor he had vacated the same and he had preferred an application for amendment to plead these basic ingredients. The Rent Controller had dismissed the application by holding that it had been filed to delay the trial and it was not evident that despite due diligence the matter could not be raised earlier. This Court had allowed the amendment by holding that such an omission in the pleadings could be rectified by allowing the amendment. In the case of **Pawan Kumar versus Ravinder Singh (supra)**, the similar amendment where the landlord had sought to incorporate statutory compliance of the provisions of the Act inasmuch as he did not possess any such building or he had vacated the same after the commencement of the Act, had been allowed by the trial Court. The challenge thereto was negated by this Court by holding that the amendment had been rightly allowed and no prejudice would have been caused to the tenant and he would have the right to cross examine the landlord during the evidence stage. In the case of **Raman Mal versus Faquir Chand and ors (supra)** the petition of the landlord for ejectment had been dismissed by the Rent Controller as well as the Appellate Court. His revision petition there against was allowed and he was allowed to amend the petition by pleading the ingredients of Section 13 (3) (a) (i) of the Act that he required the premises for his bona fide necessity and that he did not have any other premises nor he had vacated the premises after coming into force of the Act. A similar amendment had been upheld by the Coordinate Bench of this Court in the case of **Madhi**

Mal versus Sat Pal (supra). Therefore, allowing the amendment would also be in the interest of justice and equity. The petitioner will also get adequate opportunity to rebut the case of the landlord.

Consequently, I do not find any error in the impugned order allowing the amendment whereby the respondent No.1-landlord has sought to incorporate the basic ingredients in terms of Section 13 (3) (a) (i) of the Act.

The petition stands dismissed.

However, respondent No.1-landlord shall be afforded only one opportunity to lead his evidence so as to allay the apprehension of the petitioner that he is trying to delay the trial. The petitioner shall also be afforded adequate opportunity to lead his evidence.

(ANUPINDER SINGH GREWAL)
JUDGE

January 16, 2020

A.Kaundal

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