

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CR-1914-2020 (O&M)

Date of Decision:- 15.6.2020

Bagga Singh and Sons through its partner Jaswinder Singh

... Petitioner

Versus

Dr. Sandeep Sood

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurcharan Dass, Advocate, for the petitioner.

*(the aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in Virtual Court)*

GURVINDER SINGH GILL, J.

1. The petitioner challenges order dated 15.2.2020 passed by learned Rent Controller, Ludhiana whereby an application moved on behalf of the petitioner for amending the written statement has been dismissed.
2. The respondent had filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the petitioner from the demised premises i.e. property measuring 1694 Sq. Yards

being portion of property No.B-XV-64, 64-A, B-XV-65, B-XV-66A, B-XV-67A.

3. The petitioner filed his reply wherein he admitted that he was the successor in interest of the original tenant Bagga Singh. The stand of the petitioner in this regard as extracted from para No.4 of the written statement (Annexure P-2) reads as follows:

“4. That the present petition is bad for non-joinder of necessary parties. Infact, Sh. Bagga Singh son of Sh. Ram Ditta in his personal capacity was originally a tenant in the property in question. Said Sh. Bagga Singh took the property on rent from Sh. Bihari Lal son of Sh. Shiv Chand and Sh. Bagga Singh alongwith his sons started running a business in the said property. After death of Sh. Bagga Singh, all his legal heirs became tenants. The respondent alone is not the tenants in the property. Thus the present petition is liable to be dismissed on the score alone. The respondent Jaswinder Singh is only one of the legal heirs of deceased Bagga Singh.”

(emphasis supplied)

4. The aforesaid written statement was filed in the year 2017. Subsequently an application dated 24.4.2019 (Annexure P-3) was filed by the petitioner seeking amendment of written statement wherein he wished to add the following lines in his preliminary objection No.4 and as well as to take additional preliminary objection No.5. The said additions sought to be additionally incorporated read as follows:

- “i. In preliminary objections no.4 in the 8th line after the word “Property” and before the word “After”. The following line be added:-

“Sh. Bagga Singh the original tenant had executed a rent note duly registered with the Sub Registrar, Ludhiana, on dated 30.03.1950. The said rent note is in Urdu and copy of the same along with its Punjabi Translation are attached herewith:-

- ii. Preliminary objections no.5 be added as follows:-

“Infact, Sh. Bagga Singh was tenant in property no. B-XV-65-A, G.T.Road, Miller Ganj, Vishkarma Chowk, Ludhiana, and not in the property as alleged in the petition or covered by the alleged sale deed being claimed by the petitioner in his favour and the property in occupation of the respondent and other co-tenants is bearing no. B-XV-65-A, G.T. Road, Miller Ganj, Vishkarma Chowk, Ludhiana. Thus, the petition is liable to be dismissed on this ground alone”

5. The aforesaid application was opposed by the respondent who filed his reply (Annexure P-4). The learned Rent Controller while considering the arguments as addressed on the application for amendment of written statement dismissed the same vide impugned order dated 15.2.2020 which has been challenged by way of filing the instant revision petition.
6. I have heard the learned counsel for the petitioner.
7. Learned counsel for the petitioner has submitted that it was recently that he came across the rent-deed executed by Bagga Singh in the year 1950 in Urdu Language and upon translation of the same he got

to know that in fact Bagga Singh was a tenant in property No.B-XV-65-A, GT Road, Miller Ganj, Vishkarma Chowk, Ludhiana, and not the property as alleged in the petition and that since the said fact is a material fact to be considered and goes to the root of the case, he moved the application for amendment in written statement which has been erroneously dismissed vide impugned order.

8. I have heard the learned counsel for the petitioner. Although the petitioner seeks amendment on the basis of a document which is stated to be Rent-deed executed in the year 1950 but by virtue of the said document the petitioner virtually wishes to wriggle out from his admission as regards the factum of tenancy in question which he has made in the written statement wherein he admitted himself to be the successor in interest of Bagga Singh tenant and thus admitted himself to be one of the tenants in the demised premises.
9. Further, the fact that Bagga Singh was a tenant in the property No.B-XV-65-A, as is being projected by way of the amendment sought, would have no bearing on the factum of the relationship of landlord and tenant amongst the parties in property No.B-XV-64, 64-A, B-XV-65, B-XV-66A, B-XV-67A, which is the demised property in the present case. The description of both the properties being entirely different, the status of tenancy in other property would be inconsequential.
10. Additionally, this Court would observe that the factum of tenancy carries with it an element of possession. It remains unexplained as to how the petitioner was in any kind of ambiguity or confusion as

regards factum of possession over premises in which he was a tenant, as now he is trying to project that he was successor-in-interest of Bagga Singh tenant who was a tenant in property No.B-XV-65-A, GT Road, Miller Ganj, Vishkarma Chowk, Ludhiana, and not in property bearing No.B-XV-64, 64-A, B-XV-65, B-XV-66-A, B-XV-67-A.

11. The application in question, as such, apart from having the effect of withdrawing an admission regarding tenancy could also result in further delaying the proceeding which is certainly not in the interest of justice. This Court does not find any infirmity in the impugned order and the same is upheld.
12. Finding no merit in the petition, the same is dismissed.

June 15, 2020

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No