

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

Civil Revision No. 5988 of 2019 (O&M)

Date of decision : January 06, 2020

Chander Parkash and others

.....Petitioners

Versus

Gagandeep

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Viren Jain, Advocate
for the petitioners.

Mr. Vishal Aggarwal, Advocate
for the respondent.

LISA GILL, J.

Petitioners – tenants have filed this revision petition being aggrieved of order dated 31.07.2019 (Annexure P10) passed by the learned Rent Controller, Ludhiana whereby the petitioner's application under Order 6 Rule 17 CPC for amendment of the written statement has been rejected.

Brief facts necessary for the adjudication of the case are that the respondent – landlady filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short - 'the Act') seeking ejection of the present petitioners from the premises in question. Written statement was filed by the present petitioners specifically denying the relationship of landlord and tenant between the parties. It is stated in the written statement that the claim of derivative title set up by the landlady on the basis of a sale transaction, was suspicious inasmuch as the last owner of the property namely Veer Chand Bhatia had purchased the same, vide sale deed dated 16.12.2005 from the previous owners, one of whom was Vijay

Kumar Bhatia i.e. husband of the landlady. It is stated that the same property has now allegedly been re-purchased by the respondent – landlady from Veer Chand Bhatia. The sale in favour of the respondent – landlady was claimed to be a sham transaction as Veer Chand Bhatia had earlier filed two petitions seeking ejectment of the petitioners but both the said petitions were dismissed as withdrawn as they were meritless and defective. It is alleged that the proxy litigation was instituted at the instance of Veer Chand Bhatia and Vijay Bhatia by the respondent – landlady. The petitioners - tenants thereafter filed an application under Order 6 Rule 17 CPC seeking amendment of their written statement seeking to add that in case the learned Rent Controller for any reason came to the conclusion that the purchase of the property by the landlord – respondent vide registered sale deed dated 18.12.2017 was genuine, the tenants would have no objection to attorn in favour of the respondent – landlady, as in any case, they claimed to be tenants in the demised shop.

Learned Rent Controller dismissed the said application while observing that once a specific stand regarding the existence or otherwise of the relationship between the parties had been taken, the amendment sought could not be allowed. Aggrieved therefrom, this petition has been filed.

Learned counsel for the petitioners vehemently argued that present is a case of the tenants taking a bonafide stand before the learned Rent Controller to the extent that the transaction vide which the respondent – landlady purchased the property is suspicious. It was submitted that the petitioners are ready and willing to deposit the provisional rent as well and they have moved an application in this regard as well. Denial of the derivative title in the present case, it is submitted is intended only to project

the facts. Therefore, in such a situation, the amendment sought by the petitioners to the effect that in case the derivative title of the respondent – landlady is held to be valid, the petitioners would attorn in her favour should be allowed. It is, thus, prayed that this petition be allowed and the impugned order dated 31.07.2019 be set aside. Consequently, the petitioners' application for amendment of the written statement be allowed.

Per contra learned counsel for the respondent argued that the application seeking amendment of the written statement is infact a mischievous one and the petitioners are attempting to change the colour, tone and tenor of their stand itself. It is submitted that having first denied the title of the respondent – landlady, the petitioners are only trying to create an escape route from the rigours of the judgment of the Hon'ble Supreme Court in **Rakesh Wadhawan versus M/s Jagdamba Industrial Corporation 2002 (5) SCC 440**. It is further submitted that the petitioners cannot be permitted to take such contrary stands as sought in the application. Impugned order dated 31.07.2019, it is submitted, has been correctly passed and should be upheld.

I have heard learned counsel for the parties and have gone through the file with their assistance.

It is a matter of record that the petitioners – tenants have taken a categoric stand that the registered sale deed dated 18.12.2017 in favour of the respondent – landlady is a sham transaction. However, by way of amendment in the written statement, the petitioners seek to take a stand that in the event of the derivative title of the landlady being upheld, the petitioners have no objection to attorn in her favour. Clearly, the petitioners cannot taken such a dichotomous stand. I do not find any merit in the

argument raised by learned counsel for the petitioners that such an amendment is being sought only in order to enable the learned Rent Controller to assess provisional rent, if at all, and grant an opportunity to the petitioners to deposit the same. Reliance by learned counsel for the petitioners on the judgment of the Hon'ble Supreme Court in **J.J. Private Limited versus M.R. Murali 2002 (3) SCC 98** is misplaced as the same is not applicable to the facts and circumstances of the present case. It is vehemently argued that denial of the derivative title of the landlady is bonafide. In the case of **J.J. Private Limited** (supra), the facts of the case were totally different and the same have no application to the controversy in hand. In case of **J.J. Private Limited** (supra), the landlord's petition has been dismissed by the learned Rent Controller and upheld by the Appellate Authority while holding that there was no default on the part of the tenant. The High Court set aside the dismissal of the landlord's petition while holding that the tenants had indulged in unjustifiably denying the landlord's title which provided a ground for their eviction as denial of the landlord's title was not found to be bonafide and the tenant was in default. It is in this scenario that the judgment in the case of **J.J. Private Limited** (supra) was passed by the Hon'ble Supreme Court setting aside order of the High Court. Needless to say, the application filed by the petitioners for assessment of the provisional rent and deposit of the same has no bearing on this matter and shall be decided by the learned Rent Controller on its own merits in accordance with law.

Learned counsel for the petitioners is unable to point out any illegality, infirmity or perversity in impugned order dated 31.07.2019 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 cost.

It is clarified that none of the observations in the present order are a reflection on the merits of the case and shall have no effect thereon.

January 06 2020
rts

(Lisa Gill)
Judge

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