

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

**Civil Revision No.680 of 2021 (O&M)
Date of Decision: 19.03.2021**

Moti Lal

.....Petitioner

Versus

Surjit Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Naveen Sharma, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 30.10.2019, passed by learned Rent Controller, Ludhiana, dismissing two applications viz:-

(i) under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') [P-3] at the instance of petitioner's brother, namely, Shatrughan "for replacement of name of respondent Mahe Lal to Mahe Lal Tent House through its Proprietor Sh. Mahe Lal" by amending the written statement;

(ii) under Order 1 Rule 10 read with Section 151 of the CPC by the petitioner "for impleading the Moti Lal, Proprietor of M/s Mahi Lal Tent House" as respondent to the rent petition, being necessary party.

It is contended by learned Counsel for the petitioner that ejectment petition (P-1) was filed by the respondents against Mahi Lal, but as a matter of fact, shop in question had been rented out to M/s Mahi Lal Tent House, situated at Sherpur Main Bazar, Sherpur Kalan, Ludhiana and petitioner is the proprietor thereof. Also contended that there is no person in the name of Mahi Lal,

associated with the Firm i.e. M/s Mahi Lal Tent House; rather brother of the petitioner (Shatrughan) is looking after its affairs and the alleged Rent Deed, produced by the respondents/landlords, is false & fabricated document with ill-motive and that is the precise reason, the petitioner was not impleaded as party respondent in the eviction petition.

Heard learned Counsel for the petitioner and perused the paper-book.

Undisputedly, the petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (*for short 'Act'*) was filed against Mahi Lal s/o Sh. Meet Lal by the respondents/landlords on 17.10.2016 and the particulars of the sole respondent as described in the Memorandum of parties read as under:-

“Mahi Lal son of Shri Meet Lal, tenant in Shop No.5, Dashmesh Market, forming part of Property No.B.XXXI-1745/2-B, Harjap Nagar, 33 Feet Road, Mundian Kalan, Ludhiana.”

In response to the eviction petition, written statement (P-2) on behalf of the respondent was filed on 05.07.2017 by brother of the petitioner (Shatrughan) and he did not deny the relationship of landlord-tenant between the parties; rather in preliminary objection No.1, *inter alia*, submitted:-

“ The petitioner have no right to seek the reliefs under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the respondent from the demised premises, as the answering respondent never proved himself to be a defaulter and till date is ready to pay the rent with the petitioners qua the tenancy premises, as during the life time of Smt. Charanjit Kaur, the answering respondent paid the rent of the demised premises to Smt. Charanjit Kaur by way of Money Order which has duly been received by Late Smt. Charanjit Kaur during her life time.”

Paper-book reveals that after taking into consideration the pleadings of the parties, learned Rent Controller framed issues on 20.09.2017. Thereafter, affidavits of three witnesses on behalf of the respondents/landlords by way of examination-in-chief were tendered on 12.07.2018 and the proceedings were going on smoothly, but all of a sudden, both the aforesaid applications were filed at the instance of petitioner as well as his brother.

A careful perusal of preliminary objection No.1, extracted hereinabove, it is apparently clear that there is no dispute regarding the relationship of landlord-tenant between the parties; rather it has been candidly admitted by the brother of petitioner. Now, under the garb of above applications, which are substantially identical, petitioner as well as his brother wish to withdraw the above admission and that will change their defence substantially and will result into great prejudice to the case of respondents/landlords.

Although, learned Counsel for the petitioner tried to justify their plea on the premise that brother of the petitioner is an illiterate person and he inadvertently admitted the relationship of landlord-tenant, but the same cannot be accepted at this stage; more particularly, when the written statement was filed at his own volition with open eyes on 05.07.2017.

Even learned Rent Controller, while passing the impugned order, has taken into consideration this aspect of the matter in the following terms:-

“In the present case, tenancy of the demised premises was under gavel wherein while the petitioner in his petition asserted the respondent as his tenant, the respondent in his written statement admitted himself as tenant of the petitioner since beginning till date. However, this admission was now sought to be withdrawn by the respondent by alleging the applicant as tenant of the petitioner,

thereby negating himself that admitted status. Thus, this was not an admission qua an aspect which could be brushed aside lightly. Rather, it was a vital piece of admission going to the very root of the case and having once being made and allowed to stand the test of time for the past three years, could not now be allowed to be withdrawn.”

In view of the facts and circumstances, discussed hereinabove, it is clearly discernible that petitioner as well as his brother are trying to take the diametrically opposite stand to the admission, already made in the written statement, which they cannot be permitted to withdraw at this stage. As a result thereof, this Court does not find any illegality or perversity to interfere with the conclusion drawn by learned Rent Controller while exercising jurisdiction under Article 227 of the Constitution.

Consequently, this Court has no option except to dismiss the present petition.

Ordered accordingly.

The above observations may not be construed as an expression of opinion on the merits of the case.

March 19th, 2021
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>