

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

CR-732-2021(O&M)

Date of decision:-23.8.2021

Darshan Singh Khurana

...Petitioner

Versus

Ashok Kumar Devgan

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Lalltaksh Joshi, Advocate
for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

Petitioner – Darshan Singh Khurana has filed the instant civil revision under Article 227 of the Constitution of India seeking setting aside of the impugned order dated 1.3.2021 passed by the Appellate Authority, Amritsar in Rent Appeal No.5 of 2018 dismissing an application for amendment of written statement filed by a revisionist to incorporate subsequent events.

Briefly stated, the facts of the case are that petitioner – landlord Ashok Kumar Devgan had filed an ejectment petition against revisionist - Darshan Singh Khurana on various grounds one of which

being of bona fide need. That ejectment petition was allowed by Rent Controller, Amritsar vide judgment dated 15.11.2017. Feeling aggrieved against that judgment, the respondent – tenant Darshan Singh Khurana had preferred an appeal before the Appellate Authority, Amritsar, notice of which was given to petitioner – landlord Ashok Kumar Devgan, who had put in appearance. During the course of those proceedings, Darshan Singh Khurana had moved an application for amendment of the written statement to the following effect:

“Recently Ashok Kumar respondent filed one ejectment petition on 25.3.2019 titled as “Ashok Kumar V/s Ram Lal Dua” on one of the grounds of arrears of rent w.e.f. 1.12.1976 and other the alleged ground of bonafide need. In addition to that Ashok Kumar also filed another rent petition on 25.3.2019 titled as Ashok Kumar V/s Chaman Lal on the alleged ground of non payment of rent w.e.f. 1.4.2018 at the rate of Rs.800/- per month and on the alleged ground of bonafide need. It is further pointed out that ejectment petition titled as Ashok Kumar V/s Ram Lal Dua” was dismissed as withdrawn as per statement given by counsel for the petitioner on 23.9.2019 and the possession of that shop was received by the petitioner Ashok Kumar in a compromise. Thus, without admitting any allegation made in ejectment petition qua the alleged ground of bonafide need, it is pointed out that in view of said circumstances and subsequent event happened during the pendency of case as detailed above the alleged ground of bonafide need is no more available to the applicant and has become infructuous”.

That application was opposed on behalf of the landlord.

Learned Appellate Authority, Amritsar vide impugned order had

dismissed the application, leaving Darshan Singh Khurana aggrieved, who has filed the present revision petition.

I have heard learned counsel for the revisionist/petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

For ready reference, the operative part of the impugned order runs as follows:

8. *No doubt law of amendment is very liberal but before allowing the proposed amendment the court has to see whether the amendment sought is genuine and necessary for just and proper adjudication of lis between the parties. The appellant-applicant has sought the amendment of the written statement on account of the fact that respondent-landlord Ashok Kumar has filed two subsequent rent petitions against one Chaman Lal and Ram Lal Dua. The applicant has alleged that petition against Ram Lal Dua was dismissed as withdrawn as requirement of the petitioner-landlord Ashok Kumar was not genuine one. However, this fact has duly been clarified/explained by petitioner-landlord Ashok Kumar. He has admitted filing of the rent petition against Ram Lal Dua. He has explained that rent petition against Ram Lal Dua was dismissed as withdrawn, because report was received on process that Ram Lal Dua has died even before filing that rent petition against him. The petitioner-landlord has submitted that since the petition against dead person was nullity so on coming to know that respondent Ram Lal Dua has died, he withdrew the petition against*

him. So, when the petitioner-landlord (respondent in this appeal) has already clarified regarding filing of ejectment petition and subsequently withdrawal of the same on the ground that same was filed against dead person than it cannot construed that requirement of the petitioner-landlord was not genuine and bonafide. As per version of the appellant-applicant the other ejectment petition filed by the petitioner-landlord Ashok Kumar against Chaman Lal is still pending and the same has not yet been decided. In such, a scenario the citations relied upon by learned counsel for the appellant-applicant are not applicable to the facts of the present case and are distinguishable from facts of the present case. In view of the above mentioned circumstances it seems that the present application has been filed just to delay the proceedings of the case.

The order passed by the Appellate Authority, Amritsar is quite detailed, well reasoned based on proper appraisal and appreciation of the legal as well as factual position and the same does not suffer from any illegality and infirmity and can certainly be not termed as arbitrary or having been passed against settled legal principles. It does not fall within four corners of Section 115 CPC dealing with power of revision by the High Court.

As regards the authorities i.e. **Chakreshwari Construction Private Limited Versus Manohar Lal, (2017) 5 Supreme Court Cases, 212, Hasmat Rai and another Versus Raghunath Prasad (1981) 3 Supreme Court Cases 103, Baldev Singh and others Versus Manohar**

**Singh and another (2006) 6 Supreme Court Cases 498, Kumari Varma
Versus State of Kerala and another (2006) 6 Supreme Court Cases 505**

and a judgment passed by a Co-ordinate Bench of this Court in CR No.7193 of 2017 titled **Amit Kumar Versus Smt.Savitri Devi and another**, referred to by learned counsel for the petitioner, those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

Thus, finding no merit in the civil revision petition, the same stands dismissed.

Since the main civil revision petition stands dismissed, the miscellaneous application, if any, stands disposed of accordingly.

23.8.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No