

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

CR-2995-2021 (O&M)

Date of decision: November 29, 2021

Akhi Ram Saini

...Petitioner

Versus

Shanti Devi and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Munish Gupta, Advocate for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside the impugned order dated 11.11.2021 (Annexure P-5) passed by learned Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Mohindergarh, whereby in ejectment petition filed by landlady Shanti Devi (respondent No.1 herein), an application filed by the petitioner-tenant Akhi Ram Saini seeking amendment of the written statement has been dismissed.

2. I have heard learned counsel for the petitioner and gone through the case file.

3. No interference is called for in the order assailed herein, which is premised, *inter alia*, on the following reasoning:

“8. In view of the above discussions on the each plea, they are not at all sustainable in the eyes of law and necessary for the adjudication of the present rent petition and all the facts had already been there in the previous written statement and also asked previously in the cross-examination of the petitioner. The present application is nothing but a tool to delay the adjudication of the present rent petition in one way or other by the respondent. Previously also, on 05.10.2021, he has sought the adjournment on the ground that he has filed the transfer application of the present rent petition but subsequently, that transfer application was withdrawn by respondent Akhiram. Also, the amendment sought is at a stage when the trial has been completed, issues have already been framed, and both parties have adduced their voluminous

evidences. At such a stage, any such amendment can be allowed which are necessary for the adjudication of the controversy in question and also which owing to some reason and due diligence of the respondent, he could not plead the same in his written statement. There was no due diligence mentioned in the application or any submission made with regard to due diligence in the arguments advanced by the learned counsel for respondent. Therefore, respondent has not pleaded or proved any sort of due diligence which is sine qua non for seeking an amendment in the pleadings after commencement of the trial. The authorities relied upon by Ld. Counsel for respondent are not at all applicable in the facts and circumstances of the present case. The only purpose for filing the present application by the respondent is to delay the proceedings as his intention is clear by the fact that he wants to purchase the shop from the landlord by bringing him under the pressure of protracted proceedings. So, in view of aforesaid discussion and reasons, present application under the provision of Order VI Rule 17 of amendment in the written statement, moved by the applicant/respondent Akhiram, is hereby dismissed.”

4. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this court. Nature of amendment which is being sought by way of an application to seek amendment of the written statement is already pleaded, though may be little differently. It is already stated in the written statement that eviction petition has not been filed on the *bona fide* personal necessity. Any subsequent development and/or discharge of onus on the part of the petitioner, is a matter of evidence and does not require any further pleadings.

5. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement with.

6. Dismissed.

(ARUN MONGA)
JUDGE

November 29, 2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No