

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

CR-4575-2016 (O&M)

Date of decision: 02.09.2022

Karnail Singh

....Petitioner

Versus

Parminder Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Gupta, Advocate for the petitioner

Mr. H.P.S.Ghuman, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

The petitioner herein is a landlord. He filed a petition seeking eviction of the respondent (tenant) on various grounds as provided under the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the 1949 Act'). The Rent Controller culled out the issues on 24.04.2015, whereas the landlord filed an application for permission to amend the plaint on 08.05.2015. At that stage, the evidence of the parties had not been recorded. In the application, the landlord asserted that the pleadings as already stated are not upto the mark and he has failed to incorporate the necessary ingredients as required under Section 13 of the 1949 Act. In substance, the petitioner has prayed for the following amendments:-

“a) In memo of parties of the petition, with his name the age was mentioned wrongly despite delivering copy of voter card. Instead of his present age of 66 years, the age mentioned in his Voter Identity Card as 53 years prepared in the year of 2033, his age was wrongly typed as 52 years in memo of parties i.e heading of petition.

b) Similarly, in the heading of petition, the Municipal Number of the property for which the

ejectment was sought, could not be mentioned as “MUNICIPAL NUMBER NO.12/3-1/B-1-519-A” regarding which necessary municipal record is already on the case file. The one side of boundary was also wrongly mentioned which was mentioned as Shop of Harjit Kaur now Jindal Electronics. In fact it has to be mentioned as “Residential portion of petitioner, as shown in annexed site plan”

c) That the petitioner wants to start with para no.1 of petition as “That the respondent took the shop on rent from the petitioner @ Rs.900/- per month & a writing to that effect was executed between the parties on 4.9.1996 in this regard by promising to pay house tax, electricity charges in addition to that amount of Rs.900/- per month as part of rent, by further adjusting the amount of Rs.22,000/- during the period of tenancy fixed for 5 years. Copy of said writing is enclosed herewith as per the original is in power & possession of the respondent”;

d) That in next part no.2 of petition to be drafted as - “That although the writing written as “Iqraarname Rehan” (agreement to mortgage) but as per the recitals & conduct of the parties with each other the intention has to be seen at the time of drafting of document, being so the parties are treating with each other as landlord & tenant and the relationship so exists between them.”

e) That in sub para iii) of para no.3 of the petition, the petitioner wants to plead as - “That the petitioner requires the tenanted shop for his personal use & occupation as the petitioner could not do much work of driving as he did from past times. So, in order to run his own business of sale of spare parts of motor vehicles, by getting the benefit of his links with his driver community as well as the location being of prima area of the city, the petitioner wants to start his own business. For that purposes, the petitioner has sufficient funds. Being so, by amalgamating the area of shop in question with the adjoining area of petitioner's house & by getting approved the site plan from Municipal Council, Nabha as shown in annexed site plan, with proposed plan, a new shop has to be constructed to run his own business as shown in the proposed plan. After its eviction from respondent, the petitioner shall use the tenanted shop for his own & shall not let out to anyone. The petitioner is not in occupation of any other such non residential building nor has vacated

which falls within the Urban Area of Municipal Council, Nabha, after the commencement of the E.P.U.R.R Act.”

f) As additional para no.7- “That no other similar type of petition on the same subject matter is pending for the same relief as such the petitioner has no equally efficacious remedy except to file the present petition.”

g) Similarly, the sought amendments are to be incorporated in the prayer clause also.”

The court dismissed the application vide order dated 24.05.2016 on the ground that the application for permission to amend the petition has been filed after a gap of 4 years from the date of filing of the petition and the delay has not been explained. The court also held that the petitioner has failed to exercise due diligence.

Heard the learned counsel representing the parties at length and with their able assistance, perused the paperbook.

On the one hand, learned counsel representing the petitioner contends that the amendments sought are formal in nature and a major part of the amendment is to incorporate that the requirements specified under Section 13 of the 1949 Act have been fulfilled.

On the other hand, learned counsel representing the respondent submits that though the petitioner has claimed rent at the rate of Rs.900/- per month, however, as provisionally assessed by the Rent Controller, the tenant has been paying rent at the rate of Rs.500/- per month.

It is an admitted fact that after framing all the issues, the parties have not led their evidence. It is evident from para (a), (b) and (f), that the amendment sought is only to incorporate the formal details.

In para (c), the petitioner, in consonance with the original petition, claims that the respondent took the shop on rent at the rate of Rs.900/- per month, originally, but there was a subsequent contract between the parties varying the agreed rent. In para (d), the aforesaid contract has been referred to. Para (e) has tried to provide more details of the ground of personal necessity, which is already a part of the original pleadings. Such amendments, clearly fall within the category of formal amendments. In a recent judgment passed by the Supreme Court in **Life Insurance Corporation of India vs. Sanjeev Builders Pvt. Ltd. And another (2022) SCC (Online SC) 1128**, it has been laid down that the court should be liberal in allowing formal amendments. The petitioner is the landlord. The respondent-tenant has not suffered any prejudice on account of delay. Hence, the application is allowed.

Revision petition stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.

02.09.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE