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

CR-441-2017 (O&M)

Date of decision : 23.03.2022

Sumitra Devi

.....Petitioner

Versus

Parveen Kumar

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Vishal Munjal, Advocate for respondent.

ALKA SARIN, J.

Heard through video conferencing.

The present petition has been filed under Article 227 of the Constitution of India challenging the order dated 18.11.2016 (Annexure P-4) passed by the Rent Controller, Pathankot dismissing the amendment application filed by the landlady-petitioner.

Brief facts relevant to the present *lis* are that in July 2013 the landlady-petitioner filed an ejectment application under the provisions of the East Punjab Urban Rent Restriction Act, 1949 against the tenant-respondent seeking his eviction from the shop in dispute. The grounds for eviction raised were non-payment of rent since July 2012 and *bonafide* need and requirement. According to the landlady-petitioner the shop was needed for the requirement of her daughter, Mrs. Jeevan Jyoti Kaur, who had become a widow at a young age and was living with her mother and intended to open a beauty parlour. The tenant-respondent filed a reply and contested the ejectment application.

On 31.07.2015 the evidence of the landlady-petitioner was closed. On 29.07.2016 the landlady-petitioner filed an application (Annexure P-2) for amendment of the ejectment application so as to include a paragraph about her daughter not having vacated any such shop in Pathankot after the commencement of the Rent Act though such an averment about the landlady-petitioner was there in the ejectment application. The tenant-respondent filed a reply (Annexure P-3) and contested the amendment application. Vide impugned order dated 18.11.2016 (Annexure P-4) the Rent Controller dismissed the amendment application. Hence, the present civil revision petition.

Learned counsel for the landlady-petitioner contended that the amendment sought was only to include the mandatory requirements of the Rent Act where ejectment was being sought on the ground of personal necessity. He submitted that the proposed amendment would not change the nature of the case nor cause any prejudice to the tenant-respondent. Lastly, he submitted that the landlady-petitioner and her daughter were both widows and were willing to pay costs to the tenant-respondent. In support of his case he cited **Ajit Singh vs. Jit Ram** [2008(4) RCR Civil 390], **B.K. Aggarwal & Anr. vs. Avinash Grover & Ors.** [2015(1) RLR 19], **Ashok Kumar Jog vs. Vidya Rani & Ors.** [2012(4) PLR 470], **Sunil Badhan vs. Tarsem Singh** [2011(2) LAR 660] and **Sukhwinder Singh vs. Darshan Lal** [2014(2) RLR 64].

Counsel for the tenant-respondent vehemently contested the submissions made on behalf of the landlady-petitioner. He stated that the amendment sought was highly belated and the amendment application was moved when the trial had ended and the case was reserved for orders.

According to him the amendment was aimed only to fill-up the lacunae in the case and to nullify the arguments raised by the tenant-respondent to the ejectment application. He relied upon the decision by the Supreme Court in **Ajendraprasadji N. Pande & Anr. vs. Swami Keshavprakeshdasji N. & Ors.** [2006(12) SCC 1].

Heard learned counsel for the parties and perused the paperbook.

Para 5 of the ejectment application (Annexure P-1), in which the amendment is sought, reads as under :

“That the respondent is liable to ejectment from demised premises on the following grounds :

a) That the respondent has not paid the arrears of rent in respect of demised shop @ Rs.360/- per month since July 2012 without any reasonable cause.

b) That the applicant requires the demised shop for the bonafide need and requirement of her daughter Mrs. Jeevan Jyoti, who has also lost her husband and is widow at the young age and has also been neglected by her in-laws and has permanently come to live with her mother. The applicant is very old and generally remain sick and is not in a position to live alone without any help and she also needs the support of her daughter. Mrs. Jeevan Jyoti, the daughter of applicant has got the expertise of running a beauty parlour and initially requires two shops to start the work. Therefore the applicant bonafide requires the demised shop and one

adjoining shop for her daughter who is dependent on her.

The applicant is not occupying another such shop in the urban area of Pathankot after the commencement of the East Punjab Urban Rent Restriction Act. The applicant has not vacated any such building in the urban area of Pathankot after the commencement of the East Punjab Urban Rent Restriction Act”.

As per the amendment application (Annexure P-2) the landlady-petitioner wanted to substitute the last sub-para of para 5 of the ejectment application to read as under :

“Neither the applicant nor her daughter Jeevan Jyoti is occupying any other such shop in the urban area of Pathankot after the commencement of East Punjab Urban Rent Restriction Act. Neither the applicant nor her daughter Jeevan Jyoti has vacated any such shop building in the urban area of Pathankot after the commencement of East Punjab Urban Rent Restriction Act”.

In para 2 of the amendment application it is stated *“That the mandatory ingredients for the bonafide need are pleaded but inadvertently the same are in respect of applicant and not of dependant daughter of the applicant”.*

Whether the amendment sought by the landlady-petitioner so as to also plead the ingredients of Section 13(3)(a)(i) of the Rent Act qua her daughter is necessary for the proper and just adjudication of the ejectment application ? A similar position arose in the matter of ***Gurbaj Singh vs.***

Parshotam Singh & Ors. [2011(4) RCR (Civil) 518] and a learned Single Bench of this Court, after referring and relying on the judgment rendered in the case of **Ajit Singh's** case (*supra*), answered the question i.e. “*Whether son of the landlord, for whose benefit the non-residential premises is sought to be got vacated, if not the landlord or the owner himself, is also required to plead the ingredients of Section 13(3)(a)(i) of the Act in the eviction petition?*” as under :

“Thus, a close reading of the decision of the Supreme Court in the case of Ajit Singh and another (supra) shows that the person who maintains an eviction petition on the ground of bona fide necessity, has to be a landlord and has to plead all the mandatory ingredients of Section 13(3)(a)(i) of the Act in the eviction petition and even if the premises is required by the landlord for use and occupation of his son, the son of the landlord is not required to plead all the ingredients of Section 13(3)(a)(i) of the Act if he himself is not the landlord of the premises.”

The ratio of the decision in *Gurbaj Singh's* case has been followed in **Sukhdev vs. Raj Kumar Mahajan (now deceased) through his LRs** [2020(1) RCR Rent 170].

In view of the conclusions reached in the said judgements, the amendment sought by the landlady-petitioner is superfluous and is not necessary for the proper and just decision of the ejectment application. The proposed amendment would unnecessarily delay the trial.

In view of the discussion above this Court finds no ground to

interfere with the impugned order passed by the Rent Controller, Pathankot
albeit for reasons different from those given by the Rent Controller,
Pathankot. The present petition is dismissed.

23.03.2022

Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
 Whether reportable : Yes/No