

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

CR-7434-2018 (O&M)

Date of Decision : 22.12.2022

Harbinder Kaur

....Petitioner

VERSUS

Sunil Kumar

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gurcharan Dass, Advocate for the petitioner.

Mr. Rajesh Gupta, Advocate for the respondent.

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ALKA SARIN, J. (Oral)

The present revision petition has been preferred against the impugned order dated 07.09.2018 whereby the application filed by the tenant-respondent herein for striking off the issues framed on 13.04.2014 has been allowed. Another application filed by the landlord-petitioner herein was also dismissed. However, learned counsel for the landlord-petitioner states that he does not press the revision petition qua the said part of the impugned order and limits his prayer in the present revision petition to the extent that the issues as framed on 13.04.2014 have been struck off.

Brief facts relevant to the present *lis* are that an ejectment petition was filed in 2015 by the landlord-petitioner seeking eviction of the tenant-respondent on the ground of arrears of rent. On 09.05.2016 the following issues were framed :

1. Whether there exists relationship of landlord and tenant between the parties? OPP
2. Relief.

Thereafter, an amendment application was filed by the landlord-petitioner for adding the ground of personal necessity, which was allowed vide order dated 18.11.2017. Subsequently, on 13.04.2018, the learned Rent Controller framed the following issues :

1. Whether the respondent is in arrears of rent as prayed for? OPP
2. Whether the tenancy premises is bonafide required for personal necessity of petitioner as prayed for? OPP
3. Whether the petitioner is entitled for ejectment of the respondent from the premises in question ? OPP
4. Whether the petition is not maintainable ? OPR
5. Whether the petitioner has not come to the Court with clean hands, if so, its effect ? OPR
6. Relief.

Subsequent to the framing of the issues of 13.04.2018, an application was filed by the tenant-respondent for striking off issue Nos.1 to 6 framed on 13.04.2018 as well as striking off the evidence of PW-1 Hardeep Singh tendered on 04.05.2018. The said application was contested by the landlord-petitioner. Vide the impugned order, the Rent Controller has struck off the issues as framed on 13.04.2018 and has directed the parties to lead their evidence on the issues as framed on 09.05.2016.

Learned counsel for the landlord-petitioner would contend that vide order dated 18.11.2017 the amendment application filed by the landlord-petitioner was allowed and he was allowed to plead the ground of personal necessity. It is on the basis of the amendment that fresh issues were framed on 13.04.2018. It is further the contention of the learned counsel that in case the ejectment petition is only contested on the ground that whether there exists relationship of landlord and tenant, then in such an eventuality in case the Rent Controller comes to the conclusion that there does exist relationship of landlord and tenant, it would necessitate the filing of a fresh ejectment petition for getting the premises vacated on the ground of personal necessity as an objection would be raised by the tenant-respondent that since there was no issue qua requirement of the premises for bonafide personal necessity hence no eviction can be ordered.

Per contra, learned counsel for the tenant-respondent has contended that the issues have rightly been struck off inasmuch as the tenant-respondent has categorically denied the relationship of landlord and tenant and the only question to be determined is whether there exists a relationship of landlord and tenant.

Heard.

In the present case vide order dated 18.11.2017 an amendment application was allowed permitting the landlord-petitioner to raise the plea of personal necessity. The said order attained finality inasmuch as the same was not challenged by the tenant-respondent. Thereafter, rightly on 13.04.2018 issues were framed qua the bonafide personal necessity. The learned Rent Controller vide the impugned order has struck off the issues as

framed on 13.04.2018 holding that the only dispute is whether the relationship of landlord and tenant exists. The said order cannot be sustained in law inasmuch as the question in the ejectment petition would not only be whether a relationship of landlord and tenant exists but also whether the premises are required by the landlord for his bonafide personal need. In the eventuality of the Rent Controller returning a finding in favour of the landlord-petitioner that there does exist relationship of landlord and tenant, the remaining issues also need to be adjudicated as to whether the premises in dispute is required for the personal bonafide necessity of the landlord-petitioner.

In view of the above, the impugned order dated 07.09.2018 is set aside to the extent whereby issues framed on 13.04.2018 were struck off. The Rent Controller shall proceed to hear the case on the basis of the issues framed on 13.04.2018.

The present revision petition is disposed off in the above terms. Pending applications, if any, also stand disposed off. Any observation made herein shall not be treated as an expression of opinion on the merits of the case.

December 22, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO