

257 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4705-2019
Decided on : 29.03.2022

Jaswant Singh

..... Petitioner

Versus

Usha Sawhney

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjay Vashisth, Advocate
for the petitioner.

Mr. Sankalp Sagar, Advocate
for the respondent.

Manjari Nehru Kaul, J.(Oral)

The petitioner is impugning the order dated 08.07.2019 (Annexure P-18) passed by Civil Judge (Jr. Divn.) Hoshiarpur whereby application (Annexure P-16) under Order 6 Rule 17 r/w 151 CPC for amendment in the written statement has been dismissed.

2. Learned counsel for the petitioner *inter alia* contends that an eviction petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 was filed by the respondent-landlady on the ground of personal necessity. Respondent claimed herself to be the owner of the shop in dispute on the basis of a Will dated 20.03.1991 executed in her favour by her father Tulsi Ram. However, the status of the respondent as an owner/landlady stood disputed as per her own admitted case that the rent, which was being paid by the petitioner-tenant was being collected by her

brother Mohinder Pal. Learned counsel submitted that even the pleadings of the respondent-landlady were completely silent about the location as well as khasra number of the disputed shop, which was obviously an intentional omission. Learned counsel, hence, submitted that it was apparent that the respondent-landlady had colluded with her brother Mohinder Pal, who in fact was the true owner of the disputed shop. In support of his submissions, learned counsel invited the attention of this Court to Annexure P-6, which was the deposition of Halqua Patwari, Hoshiarpur as RW-1, and argued that it stood revealed therein that respondent-landlady was not the actual owner of the property in question. Learned counsel submitted that since it was his specific stand that there did not exist any relationship of landlord and tenant between him and the respondent, he had moved for the following amendment of his reply under Order 6 Rule 17 CPC:

“Moreover, the shop in dispute falls within revenue estate of village Bassi Khawaju and bears Khasra No.206(3-17) and even in revenue record Mohinder Pal is recorded as owner of the property and estate of Tulsi Dass stands mutated in his name alone.”

3. Learned counsel for the respondent while opposing the submissions made by the counsel opposite submits that the impugned order was a well reasoned one, which did not warrant any interference. Learned counsel submitted that merely because the khasra number of the disputed property stood in the name of brother of the landlady i.e. Mohinder Pal, would not in any way extinguish her title over the said property, more so, when it was admitted by said Mohinder Pal during his deposition before the

Court as AW-2 in the ejectment petition that his late father Tulsi Ram had executed a Will dated 20.03.1991 wherein he had willed the shop in dispute as well as the adjoining shop to his sister i.e. respondent-landlady. Still further, it was argued by the learned counsel that the petitioner-tenant had earlier moved an application for demarcation of land to prove that the shop in question was owned by Mohinder Pal Singh, which was dismissed vide order dated 23.08.2017 (Annexure P-12) by Rent Controller Hoshiarpur. The said order was then impugned by way of revision petition before this Court but was later withdrawn by the petitioner on 21.05.2018 (Annexure P-14). In support of his submissions, learned counsel has placed reliance on ***Bhimabai Mahadeo Kambekar(dead) through legal representative vs. Arthur Import and Export Company and others, 2019(3) SCC 191 and Om Prakash and another vs. Mishri Lal (dead) represented by his legal representative Savitri Devi, 2017(5) SCC 451.***

4. Heard learned counsel and perused the impugned orders and material available on record.

5. As a general rule, no amendment should be allowed once the trial has commenced. Adverting to the case in hand, it is a matter of record that an application was also filed by the petitioner seeking demarcation prior to the filing of his written statement, ascertaining the ownership of the demised shop. Hence, it is clearly discernible that the petitioner suspected Mohinder Pal to be the owner of the demised shop. So, now and that too at a belated stage, he cannot be permitted to seek amendment of his written statement to the effect as reproduced hereinabove in para 2.

6. No ground is thus, made out to interfere in the impugned order passed by the Court below. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

29.03.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No