

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

108

CR No.3619 of 2022 (O&M)

Date of Decision: 15.11.2022

Manish Fozdaar

...Revisionist-Petitioner

Versus

Mukesh Kumar

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Krishan Sharma, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

CM No.14847-CII of 2022

This application has been moved on behalf of the applicant-petitioner for seeking permission to place the application under the Right to Information Act, 2005, Rent Agreement dated 31.03.2016 and his affidavit dated 01.11.2022, on the record as Annexures P-6 to P-8 respectively.

Heard.

Keeping in view the reasons as mentioned in this application, the same is allowed and Annexures P-6 to P-8 are taken on the record.

CR No.3619 of 2022

The petitioner-defendant (for short 'the defendant') herein has laid challenge to the order dated 29.07.2022 (Annexure P-5) passed by learned Additional Civil Judge (Senior Division), Narnaul (for short 'the trial Court') in Civil Suit No.1157 of 2017 titled as '**Mukesh Kumar vs.**

Manish Fozdar' whereby the application moved by him under Order 6 Rule 17 read with Section 151 CPC for seeking amendment in the written-statement, has been dismissed.

2. I have heard learned counsel for the petitioner-defendant, at the preliminary stage, in the present revision petition and have also perused the file thoroughly.

3. Learned counsel for the defendant contends that initially, the suit property was allotted to one Om Parkash who had raised construction thereon in the year 1985 and thus, the said construction was more than ten years old and hence, the said Civil Suit was not maintainable and rather, the provisions of the Rent Act were applicable to the said property but the defendant could not lay his hands upon the relevant documents in this regard earlier and resultantly, he could not plead the above-said facts in his written statement and it being so, the impugned order passed by the trial Court qua the dismissal of the application as moved by him for seeking the amendment in his written-statement in view thereof, is an erroneous one and deserves to be set aside.

4. However, I do not find the afore-raised contention to be tenable because in para No.4 in the impugned order, the trial Court has categorically observed that the conveyance-deed qua the suit property had been executed in the name of the plaintiff by the Government Co-operative House Building Society, Narnaul, on 30.01.2012 and not in the name of said Om Parkash and the certificate of allotment in respect thereof had also been issued in his (plaintiff's) name on 14.12.2011.

5. To add to it, the said Civil Suit had been filed on 30.11.2017 and the written statement filed by the defendant bears the date 03.05.2018 whereas the above-said application has been moved by the defendant on 03.12.2021, i.e more than 3½ years after filing the written statement. The trial in the Civil Suit has already commenced and as observed by the trial Court in para No.5 in the said order, the defendant has already availed several effective opportunities to adduce his evidence since 20.09.2019 but had not led any evidence on the record. To cap it all, throughout in his application Annexure P-3, the defendant has nowhere pleaded that at the time of filing his written statement, he had exercised due diligence to collect the information regarding the age of the construction as raised over the suit property but had not been able to procure the same at that time. In these circumstances, it is explicit that the proposed amendment in the written statement has rightly been declined by the trial Court.

5. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the present revision petition, being sans any merit, stands dismissed.

15.11.2022

neetu

**(MEENAKSHI I. MEHTA)
JUDGE**

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*