

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2790 of 2021 (O&M)
Date of decision: 30.11.2022

Harman Preet Singh

..Petitioner

Versus

Himmat Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajaivir Singh, Advocate
for the petitioner.

Mr. Gaurav Singla, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is a tenant of shop No.B-2/1236 located at Banwari, Rajpura, Patiala Road. An application filed under Order VI Rule 17 CPC for permission to amend the reply to the main ejectment petition has been dismissed. The correctness of the aforesaid order has been challenged in this revision petition.

2. Relevant facts, in brief, are required to be noticed.

3. The respondents have filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, seeking the petitioner's ejectment on the ground of non-payment of rent, material impairment of premises as well as their bonafide necessity. While filing the written statement, the tenants stated that the respondents are neither the owners of the premises in question nor they are entitled to any relief on the stated grounds. It was further stated that the respondents have no locus standi to file the present ejectment petition.

4.

Admittedly, the tenanted premises (shop) was originally owned

by the grand mother of the respondents. The respondents claim that they have become the owners of the premises after the death of their grand mother.

5. The Rent Controller passed an order assessing the provisional rent which has been paid by the tenant.

6. There are only two surviving grounds, namely, the bonafide necessity of the respondents and material impairment of the premises by the tenant resulting in diminished the value of the property.

7. An application filed by the tenants for permission to amend the written statement has been dismissed on the ground that the amendments sought to be introduced are contrary to the earlier pleadings and the same would change the nature of the existing pleadings. In the application for permission to amend the written statement, the tenant intends to make the following changes:-

“9. That applicant wants to delete the portion of para no. 1 from fifth line as under

“It is also wrong and denied that grand mother of the petitioner was owner of the dismissed shop with some other properties, as alleged”.

10. That applicant also wants to delete the portion of para No. 1 from 12th line as under

“It is totally wrong that petitioner become owner of the disputed shop at any time.

11. That petitioner also wants to delete the portion of para No. 3 from 16th line as under

“There is no relationship of land lord and tenant between the respondent and petitioner as the petitioner has not produced any record with their petition to prove their pleadings. It is worthwhile to mention here that neither in the revenue record nor in the Municipal record the ownership of the petitioner is mentioned and existing. When they are not the owner of the disputed shop then how they have rented out the same to the respondent. The petitioners are liable to

produce their ownership record on the case file”.

12. That applicant wants to add in para no. 3 at last as under:

“In fact suit property was taken by the respondent from above said Kartar Kaur on rent @ Rs. 6500/- per month. After the death of Kartar Kaur, respondent started to pay the rent to petitioners and has paid the rent till March 2015. But they have not issued any receipt in respect of receiving the rent from the respondent. After March 2015, petitioners have stopped receiving the rent of the shop in question from the respondent. So due to this reason, respondent has also sent the rent of the shop in question through pay order to petitioners by registered post. But petitioners refused to accept the rent just in order to get the shop vacated from the respondent.”

13. That applicant wants to delete the portion of para no. 4(A) from 3rd line as under:

“There is no relationship of the land lord and tenant between the parties to the petition”

14. That applicant wants to add in para No. 4A as under:

“Respondent paid the rent to petitioner till March 2015.”

15. That applicant wants to delete the para no. 5 of the reply and wants to add in para no. 5 as under:

“That para no. 5 of the petition is wrong and denied. petitioners have filed the present petition on the basis of wrongs facts”

16. That applicant wants to delete the portion of para no. 7 of the reply from 3rd line as under

“And a wrong cause of action is mentioned by them in this petition. The question of making the refusal to pay the alleged arrears of rent. The petitioners are not the land lord of the respondent so they are not entitled to receive the alleged arrear of rent from the respondent nor has right to file the present petition against the respondent.”

8. In substance, now, the tenant intends to admit the relationship of landlord and tenant between the parties.

9. The learned counsel representing the petitioner submits that the petitioner has already led his evidence and he does not wish to lead any further evidence.

10. In the considered opinion of this Court, the nature of amendments sought to be incorporated by the tenant would shorten the scope of adjudication by the Rent Controller. Once the relationship of landlord and tenant is admitted, the Rent Controller can, straight way, proceed to adjudicate upon the grounds on which the eviction has been sought.

11. The learned counsel representing the respondents has failed to draw the attention of the Court to any prejudice which may be caused to the case of the landlords.

12. In view of the aforesaid, the impugned order dated 21.01.2020 is set aside.

13. Let the tenant file an amended written statement. Thereafter, the court shall grant an opportunity to the respondents to lead evidence, if they pray for. However, the tenant shall not be entitled to any further opportunity of leading evidence. The Rent Controller is directed to decide the matter, positively, within a period of six months, from today.

14. Disposed of accordingly.

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

November 30, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*