

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

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**CR-3388-2021 (O&M)
Date of decision: 29.09.2022**

Kapil Kumar

.....Petitioner

Versus

Charanjit Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Ustat Rupeet Kaur Sandhu, Advocate for
Dr. Malkit Singh Jandiala, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner/tenant is impugning the order dated 28.10.2021 passed by the learned Rent Controller, Chandigarh (Annexure P-3) vide which his application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the Code') for amendment of the written statement was dismissed.

Learned counsel appearing for the petitioner submits that the impugned order is patently erroneous and contrary to the settled principles of law pertaining to amendment of pleadings. She submits that the Rent Controller while passing the impugned order failed to appreciate that the respondent/landlord in his cross-examination had categorically admitted that he had earlier filed a petition under Section 13A of the East Punjab Urban Rent Restriction Act, 1949 and the instant eviction petition had been filed by him without seeking permission to file a fresh one. She submits that the proposed amendment is based on the evidence led by the parties and would not in any manner cause prejudice to the respondent/landlord in case it is allowed. She asserts that as per the settled principles of law,

amendment of pleadings can be allowed at any stage, moreso since it would enable the Court to determine the real issue between the parties.

In support, she has placed reliance upon *M/s Chakreshwari Construction Pvt. Ltd. Vs. Manohar Lal : 2017(1) RCR (Ren) 259 (SC)*; *Amar Singh V/s Nirmal Singh and another : 2016(3) RCR (Civil) 192 (PHHC)* and *Sahib Singh and another Vs. Kuldeep Kumar and others : 2010(41) RCR (Civil) 777 (PHHC)*.

I have heard learned counsel and perused the relevant material on record.

The petitioner is seeking amendment of his written statement in the wake of certain admissions made by the respondent/landlord during his cross-examination before the Rent Controller. It would be pertinent to point out here that after the conclusion of the respondent/landlord's evidence, the case was fixed for petitioner's evidence and ever since then i.e. 14.03.2019, despite availing numerous opportunities for almost one and a half years to conclude his evidence, the petitioner has failed to do so and instead moved an application under Order 6 Rule 17 of the Code at a highly belated stage. In the instant case from the conduct of the petitioner/tenant, it is clearly discernible and there is no manner of doubt, that he has been engaging in dilatory tactics.

Moreover, a perusal of the impugned order reveals that the petitioner has already taken a preliminary objection qua the maintainability in his written statement. Still further, a specific issue qua maintainability of the rent petition also stands framed by the Rent Controller. Hence, this Court does not find any force in the submissions

of the learned counsel that amendment of written statement would be essential for the effective adjudication of the case in hand. The case laws relied upon by the learned counsel would not come to her rescue as in the facts and circumstances of the instant case, the amendment sought by the petitioner cannot be said to be necessary for just and effective decision of the case.

As a sequel to the above, this Court has no hesitation in observing that the impugned order does not suffer from any illegality and rather is an outcome of sound exercise of judicial discretion.

Accordingly, the instant revision petition being devoid of merit is dismissed.

29.09.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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