

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

CR-5648-2022(O&M)

Date of decision:-2.12.2022

Pramod Madan

...Petitioner

Versus

Shushila Bhogal

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Arnab Kumar, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

1. Briefly stated, facts of the case are that petitioner-landlady Ms.Sushila Bhogal had filed an ejectment petition on the ground of non-payment of rent and personal necessity against her tenant Parmod Madan seeking eviction of the latter from two shops situated at Bhai Wala Chowk, Ferozpur Road, Ludhiana.

2. That ejectment petition was filed on 18.8.2015. Notice of that petition was given to respondent, who put in appearance in the Court and filed written reply contesting the petition. Issues were formulated and case was fixed for evidence of the petitioner. The petitioner had adduced her evidence and when the case was at the stage of evidence of respondent, he filed an application for amendment of the written statement so as to mention that rent was not paid by the respondent since there was dispute of ownership of Rameshwar Saran Bhogal replacing name of Master

Sukhia Ram Sahab; furthermore similar amendment is to be made in para No.2(a) of the written statement on merits and in para No.2(d) on merits to replace name of Naveen Bhogal by Narinder Bhogal; similar correction to be made in para No.3 and date of decision is desired to be mentioned 9.6.1992. Several other additions and replacement of words in the written statement at various places were sought.

3. That application was opposed on behalf of the petitioner-landlady vehemently contending that it was highly belated and if proposed amendment is allowed that would lead to withdrawal of admission made in the pleadings by the respondent resulting in a de novo trial.

4. After hearing arguments, learned Rent Controller, Ludhiana vide a detailed order dated 2.8.2022 dismissed the application leaving the respondent aggrieved and he has filed the present revision petition challenging the impugned order praying that the same be set aside and application for amendment of written statement filed by him be allowed.

5. I have heard learned counsel for the revisionist besides going through the record and I find that the revision petition is doomed for failure.

6. The impugned order is quite detailed and well reasoned passed in light of the settled legal position keeping in view the facts and circumstances of the case. It has been observed that as per proviso to Order 6 Rule 17 CPC, no application for amendment shall be allowed after the trial has commenced unless the Court come to the conclusion that in spite of of due diligence the party could not have raise the matter before the commencement of trial and in this case the proposed amendment seeks

to withdraw the admissions made by the respondent in the written statement and if such amendment is allowed, the petitioner would be irretrievably prejudiced being denied the opportunity of extracting the admission from the respondent. Referring to the facts of the case learned Rent Controller, Ludhiana had observed that responding to the assertion in the ejectment petition that respondent was in arrears of rent in the written reply filed by him, the respondent had taken up a plea that rent was being received by Narinder Bhogal and Rameshwar Saran and there is dispute of ownership between the LRs of Rameshwar Saran and after the death of Rameshwar Saran Bhogal, no one came to receive the rent and that rent was being received by Naveen Bhogal and now after closure of evidence of petitioner and recording statement of one witness produced by the respondent, the respondent is seeking amendment that dispute of ownership was between LRs of Master Sukhia Ram Sahab and not Rameshwar Saran Bhogal and Master Sukhia Ram Sahab was the one, who was receiving rent from the respondent. He wants to add the particulars of earlier rent petition and the date of decision of that rent petition, which was not mentioned in the original written statement. The respondent had failed to establish the circumstances, under which he failed to raise this plea before commencement of trial. The only reason given is that earlier counsel had not drafted the written statement correctly but as per settled law such ground cannot be taken up to seek relief from the Court. It was further observed that the proposed amendment will change the nature of defence of respondent from one originally taken. Finding no merit in the application, it was dismissed with cost of

Rs.1,000/-.

7. I do not find any illegality and infirmity in this order. Although learned counsel for the revisionist relying upon judgment **Life Insurance Corporation of India Versus Sanjeev Builders Private Limited and another** passed by the Apex Court in Civil Appeal No.5909 of 2022 arising out of SLP(c) no.22443 of 2019 has submitted that the proposed amendment is necessary to enable the Court to arrive at correct decision and to adjudicate the controversy in a proper and appropriate manner. But I do not find myself in agreement with him on this point. The Rent Controller by giving cogent reasons has come to the conclusion that the proposed amendment of written statement cannot be allowed. It did not come to any conclusion that proposed amendment was necessary for final and effective adjudication of controversy between the parties. The trial Court was fully justified in dismissing the application vide the impugned order. The same is upheld. There is absolutely no reason to interfere with the impugned order and to allow the application filed by the respondent/tenant.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

2.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No