

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**1. CR No.168 of 2019 (O&M)
Date of Decision : 14.07.2022**

Babu Ram Prop. M/s B.R. Tailors and Anr.Petitioners

VERSUS

Tarninder Singh and Anr.Respondents

2. CR No.169 of 2019 (O&M)

M/S Bombay Cloth House and Anr.Petitioners

VERSUS

Tarninder Singh and Anr.Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Divanshu Jain, Advocate and Mr. Prateek Sodhi, Advocate
for the petitioners in both the petitions.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ajaivir Singh, Advocate and Ms. Neha Anand, Advocate
for respondent no.1 in both the petitions.

ALKA SARIN, J. (Oral)

Challenge in the present revision petitions is to order dated
05.12.2018 dismissing the application filed by the petitioners herein seeking
amendment of the written statement.

For the sake of brevity the facts are being extracted from CR
No.168 of 2019.

Brief facts relevant to present *lis* are that the respondent-
landlord filed an ejectment petition seeking ejectment of the tenants from
SCO No.17, Sector 17-E, Chandigarh inter-alia on the ground of arrears of
rent and *bona fide* personal necessity. It was stated in para 5 of the ejectment
petition as under :-

“5. That the SCO in question belongs to the petitioner and there is another SCO bearing No.139-141, Sector 17-C Chandigarh, belonging to the petitioners to the extent of 1/3rd share each and one half portion on the ground floor and complete first is being used occupied by the petitioner for their business of real estate and builder. So except the said SCO neither the petitioners nor their family members including the daughter of the petitioner No.1 are occupying other similarly situated commercial premises nor the petitioners or their family members including the daughter of the petitioner No.1 have vacated any such building without sufficient cause after the commencement of the East Punjab Urban Rent Restriction Act in the urban area of Chandigarh. The petitioners require the entire building i.e. SCO No.17, Sector 17-E, Chandigarh for the reason mentioned above and for that purpose the petitioner is initiating the ejectment proceedings against all the occupants/tenants in the building. The petitioners for the reason mentioned above have a pressing need to set up their business in the premises in question.”

In the written statement filed by the petitioner-tenant it was stated in paras 3 and 8 of the preliminary objections that the respondent-landlords herein were owners of other commercial and non-commercial properties and the same have not been intentionally disclosed. It is further

stated in para 8 that the respondent-landlords were having accommodation in the building in question. To the knowledge of the petitioner-tenant, the respondent-landlords were owners of six more SCOs in Sector 17, Chandigarh which they were renting out time and again on vacation of the said buildings.

In replication, in response to para 8 of the preliminary objections, the details of the properties owned by the respondent-landlord were detailed. Thereafter, during the cross-examination of PW-1 i.e. the respondent-landlord, it has been elicited that SCF No.65, Sector 26, Grain Market, Chandigarh, when purchased by him, was a vacant property and that the said building, which was purchased 3 to 4 years ago through a bank auction, had partly been sold and the remaining building is lying vacant. It has further come in the cross-examination that the building in Sector 26 was purchased by the respondent-landlord for running his own business. Thereafter, six witnesses were examined by the petitioner-tenant himself. Subsequently, an application for amendment of the written statement was filed seeking to incorporate primarily two facts; firstly, that the SCF No.65, Sector 26, Grain Market, Chandigarh was purchased by the respondent-landlord for his own use and occupation and, secondly, it was rented out to M/s Punjab General Store and thereafter was recently sold to the persons occupying the said building. The petitioner-tenant by way of the application further wanted to incorporate that the respondent-landlord had filed an eviction petition against other tenants and in the interregnum had got vacated the entire floor of SCO No.17, Sector 17-E, Chandigarh for his own use and occupation but the said floor had been let out to a company who had set up

its office on the second floor of the building. A reply was filed by the respondent-landlord to the application for amendment wherein it was denied that SCF No.65, Grain Market, Sector 26, Chandigarh was purchased by the respondent-landlord for his own use and occupation and that the same had been rented out to M/s Punjab General Store. It was further stated that respondent-landlord has every right to deal with his properties as per his choice and the tenant-petitioner is no one to dictate terms. It is further admitted that eviction petitions have been filed against other tenants for getting the buildings vacated for his own use and occupation. It is further denied that SCO No.17, Sector 17-E, Chandigarh had been sublet to any company and that the same was being used for his own business purposes and the remaining portion on getting vacated would be put to use by the respondent-landlord for his own use and occupation.

Learned counsel for the petitioners would contend that learned Rent Controller vide the impugned order has not considered the merits of the application and has summarily dismissed the same on the ground that the same has been filed when the evidence had been led by the petitioner-tenant himself.

Per contra learned senior counsel for the respondents has stated that the petitioner-tenant herein, after the cross-examination of the respondent-landlord, had led six witnesses in evidence and it was only thereafter that the present application for amendment was filed. It is further contended that the application has been filed only to delay the proceedings and that the eviction petition has been pending since 2015.

I have heard learned counsel for the parties.

In the present case, a perusal of the impugned order dated 05.12.2018 reveals that the same does not deal with the application on merits and has been summarily dismissed by learned Rent Controller only on the ground that the same had been filed at the fag-end of the case. The issue in the present case as to whether the said amendment ought to have been allowed keeping in view the facts which have emerged in the cross-examination of the respondent-landlord, has not been touched upon by the Rent Controller.

In view of above, the impugned order dated 05.12.2018 passed by learned Rent Controller is set aside and the case is remanded back to learned Rent Controller to decide the application afresh bearing in mind the issues raised in the application. As the matter is pending since 2015 learned Rent Controller is requested to expedite the hearing of the case.

The revision petition is disposed off in the above terms. Pending applications, if any, also stand disposed off.

14.07.2022
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO