

CR-9180-2017 (O&M)

201 (1st case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-9180-2017 (O&M)

Date of decision: May 01, 2023

Parkash Chand

....Petitioner

versus

Gurmeet Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Vaibhav Sehgal, Advocate for petitioner.

Mr. Ashish Gupta, Advocate for respondent.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 13.12.2017 (Annexure P-1) passed by learned Rent Controller, Ludhiana whereby application filed by petitioner under Order XIV Rule 5 read with section 151 of Code of Civil Procedure, 1908 (for short 'CPC') for framing additional issues was partly allowed and second issue proposed in the application was not framed, and whereby only one opportunity was granted to petitioner-tenant to lead entire evidence.

2. The revision petition is premised on the averments that respondent-landlady filed ejectment petition against petitioner-tenant on the ground of arrears of rent and *bona fide* personal necessity.

2.1. During pendency of proceedings, petitioner-tenant filed an application under Order VI Rule 17 of CPC to plead preliminary objection No.4 to the effect that other tenants in occupation of shops have vacated premises in their possession and handed over the same to respondent. Petitioner had pleaded that respondent is having intention to sell the property and approached many property dealers. One

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property dealer, namely Gobind Sharma approached petitioner but price quoted was beyond imagination and also much beyond market price i.e., Rs.30 lakh but value of property is not more than Rs.20 lakh. Learned Rent Controller allowed the said application vide order dated 21.11.2016.

2.2. Petitioner filed an application under Order XIV Rule 5 read with Section 151 CPC for framing two additional issues i.e., one with regard to vacation of the shops by other tenants and secondly with regard to intention of respondent to sell property in question.

2.3. Vide impugned order dated 13.12.2017 (Annexure P-1), learned Rent Controller partly allowed the application, but refused to frame issue No.2 and issue No.1 was wrongly framed.

3. I have heard learned counsel for the petitioner and perused case file.

4. Having heard learned counsel for the parties, I am of the view that ends of justice will be met if following additional issue be framed:

“Whether respondent-landlady expressed her intention to sell property to the petitioner-tenant, if so, to what effect? OPR

5. Ordered accordingly. Petitioner will be given only one effective opportunity by the learned trial Court for his further evidence, if any. In the premise, revision petition is disposed of accordingly.

6. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 01, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No