

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.972 of 2020

Date of Decision : 14.03.2023

Lal Chand Arora

....Petitioner

VERSUS

Surender Kaur

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aalok Jagga, Advocate for the petitioner.

Mr. Sharan Sethi, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been filed challenging the order dated 22.01.2020 whereby the application for amendment of the application seeking leave to defend has been dismissed.

The brief facts relevant to the present *lis* are that a petition under Section 13(B) of the East Punjab Urban Rent Restriction Act, 1949 as extended to Chandigarh (hereinafter referred to as the 'Rent Act') was filed by the respondent-landlord for ejectment of the petitioner-tenant from the shop marked 'B' in the site plan measuring 20 ft. x 35 ft. approximately i.e. 1/4th portion of the ground floor of SCO Nos.10-11-12, Sector 17-A, Chandigarh towards K.C. Theatre, Chandigarh. The petitioner-tenant filed an application seeking leave to defend. While the application seeking leave to defend was pending, portions marked 'C' and 'D' were vacated by the tenants therein on 03.10.2019. On 13.10.2019, an application for amendment of the application seeking leave to defend was filed by the petitioner-tenant. The respondent-landlord admitted the fact that the tenants in portions marked 'C' and 'D' had vacated the premises on 03.10.2019 and took the stand that the said application had been rendered infructuous in view of the

fact that it has been admitted by the respondent-landlord that portions marked 'C' and 'D' had since been vacated. Vide impugned order dated 22.01.2020 the Rent Controller dismissed the amendment application as infructuous.

Learned counsel for the petitioner-tenant contends that the Rent Controller, relying upon the judgment of this Court in the case of **Chander Mohan vs. Brij Mohan [2000 (1) RCR (Rent) 79]** has dismissed the application. It is further the contention that the said case is totally distinguishable on facts inasmuch as in the said case the evidence had concluded and since it had been a case of additional evidence and would have caused delay, therefore, it was held that carrying out of the amendment would be a futile exercise. Learned counsel for the petitioner-tenant further contended that the present case is a case under Section 13(B) of the Rent Act and the application seeking leave to defend is yet to be decided and no prejudice would be caused to the respondent-landlord in case the amendment is permitted to be carried out especially in view of the fact that it has categorically been admitted by the respondent-landlord that portions marked 'C' and 'D' stand vacated.

Per contra learned counsel for the respondent-landlord submitted that in view of the fact that the facts sought to be incorporated by way of amendment have already been admitted by the respondent-landlord, the exercise of amending the application seeking leave to defend would be an exercise in futility and would delay the matter.

I have heard learned counsel for the parties.

In the present case the application for amendment was dismissed vide impugned order dated 22.01.2020. The present revision

petition has been pending in this Court since 07.02.2020. Though the facts sought to be incorporated by way of the amendment have already been admitted by the respondent-landlord, nothing has been shown to this Court by the respondent-landlord to highlight any prejudice that would be caused to him in case the said facts are allowed to be incorporated in the application seeking leave to defend. The ejectment petition itself has been pending since 2012 and is still at the stage where the application seeking leave to defend is to be decided. No prejudice would be caused to the respondent-landlord in case the amendment sought is allowed.

In view of the above, I do not find the impugned order to be sustainable in law. The same is accordingly set aside. The amendment application filed by the petitioner-tenant is allowed. However, keeping in view the fact that the ejectment petition has been filed by the respondent-landlord under Section 13(B) of the Rent Act and the same has been pending since 2012, the Rent Controller is requested to expedite the hearing of the case and conclude the same within a period of six months from today.

Disposed off in the above terms. Pending applications, if any, also stand disposed off.

14.03.2023
jk

(ALKA SARIN)
JUDGE

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