

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1284-2023 (O&M)
Date of Decision: April 27, 2023

Ravinder Rai Sapra through LRs and another
...Petitioners

Versus

Gurinder Singh and another
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Divanshu Jain and Mr.Prateek Sodhi, Advocates
for the petitioners.

Mr.Aayush Gupta, Advocate
for the respondents.

ARCHANA PURI, J.

CM-6976-CII-2023

Present application has been filed for placing on record the
affidavit and document Annexure P-13.

In view of the averments made in the application, same is
allowed and the aforesaid document is are taken on record.

Main case

Challenge in the present petition is to the order dated
07.02.2023 passed by learned Rent Controller, thereby, dismissing the
application filed by the petitioners-defendants (tenants) for making the
amendment of the reply to the main petition, on the basis of subsequent

events.

The facts, as culled out, from the paperbook, are that, respondent-plaintiff (landlord) had filed the eviction petition under Section 13 of the East Punjab Urban Rent Restrictions Act, 1949 against the present petitioners-tenants, in November 2015, for seeking eviction of the petitioners, on the ground of non-payment of rent, subletting and for personal necessity of himself as well as his family members.

In the said petition, it was averred by the respondent-landlord that he requires the demised premises for his family members i.e. his children have grown up and require separate rooms, study room and guest room.

In pursuance of the notice issued, the petitioners-tenant had made appearance and had filed reply, thereby, denying the assertions as made in the eviction petition. During the course of the proceedings, earlier also, the petitioners-tenants had filed an application for seeking amendment in the written statement, on the basis of subsequent events and the same was denied by the learned Rent Controller. But however, CR-5223-2022 filed by the petitioners, was allowed, vide order dated 15.11.2022, copy whereof is Annexure P-5.

Thereafter, again, another application, copy whereof is Annexure P-6 was filed, thereby, seeking amendment of the written statement, on account of subsequent events. In the aforesaid application, it was pleaded that during the pendency of the eviction petition, the landlord had got vacated the premises from the tenants i.e. Richa Oberoi and Ravi Bhatia, on the ground of personal necessity. Also, it was further averred

that landlord has let out Flat No.1, having three shops to one Purvak Sharma, Proprietor of M/s Pandit Ji Da Chuhla and a rent deed has also been executed by the landlord. If the landlord bonafidely required the demised premises, he would not have let out the said three shops recently, on rent to the aforesaid tenant. It is also stated that landlord has concealed the material facts from the Court as it came to the notice of the tenants that the landlord is owning a building No.2540/1, measuring 92.80 sq. yards, situated at Ghumar Mandi, Ludhiana. The tenants have come across the property tax return of the aforesaid property. Thus, in view of the subsequent events, as referred aforesaid, a prayer was made for amending the written statement, by way of addition of preliminary objection No.12, in the same.

The respondent-landlord had filed the reply, thereby, disputing the maintainability of the application and also asserted about the application to be mere abuse of process of law and that it had been filed only for delaying the proceedings. Whenever, the case is fixed for arguments, the tenants file false and frivolous application. It was asserted that the other tenant vacated the premises in their possession and the eviction petition filed against those tenants, has been withdrawn. It was also denied that the rent deed was executed or that if the landlord had bonafide requirement of the demised premises, he would not have let out three shops, as alleged. Besides the same, it was also pleaded in the reply that the eviction petition in question has been filed for residential requirement of the landlord, whereas, property No.2540/1 is a commercial property. The sale deed of the same is already on record. As such, a prayer

was made for dismissal of the application.

After hearing learned counsel for the parties, vide impugned order dated 07.02.2023, the application, as such, was dismissed with costs of Rs.50,000/-, in accordance with the order passed by Coordinate Bench of this Court in CR-548-2023, decided on 30.01.2023.

Feeling aggrieved by the aforesaid order, the revision petition in hand, has been filed by the petitioners-tenants.

The respondents-landlord made appearance through counsel.

Learned counsel for the parties heard and record perused.

At the very outset, it is pertinent to mention that petition under Section 13 of the East Punjab Urban Rent Restriction Act, was filed by the respondents-landlord, thereby, seeking ejectment of the present petitioners-tenants from the demised premises, on account of non-payment of rent, subletting as well as personal necessity of himself as well as his family members.

When the case was at the fag end and it was fixed for arguments, an application was filed for seeking amendment in the written statement, on account of subsequent events.

In the application, three grounds, on three subsequent events, as such, were mentioned. One relating to eviction of the demised premises by the tenants Richa Oberoi and Ravi Bhatia; second with regard to the letting out of Flat No.1, having three shops to one Purvak Sharma, proprietor of M/s Pandit Ji Da Chuhla, as it is stated to be flat, converted into three shops and if the need of personal necessity was bonafide, landlord would not have let out these three shops;third ground is that there

was concealment of material facts, at the instance of the landlord, as it had come to the notice of the tenants, that the landlord is owning building No.2540/1, measuring 92.80 sq. yards, situated at Ghumar Mandi, Ludhiana.

So far as, the eviction of the premises from the other tenants Richa Oberoi and Ravi Bhatia, on the ground of personal necessity as well as alleged concealment of material fact of building No.2540/1, situated at Ghumar Mandi, Ludhiana, are concerned, during the course of arguments, both the aforesaid grounds have not been pressed for seeking amendment in the written statement. In the light of the same, it should also be taken note of that in the ejectment petition, copy whereof is Annexure P-1, there is specific mention made by the respondents-landlord, about the separate eviction petition having filed against the tenants on the ground floor, on the ground of bonafide need and that ejectment petition, is related to the ejectment of tenants Richa Oberoi and Ravi Bhatia. There is mention, so made. Not only this, even in the said ejectment petition, there is mention of the landlord, being owner of non-residential building i.e. one shop in Ghumar Mandi, Ludhiana and there was specific mention made that the same cannot be used for residential purposes, as it is industrial and commercial property.

In the light of the same, it is evident that two grounds for seeking amendment in the written statement, on the basis of the subsequent events, had been given up. Now, the ground for seeking amendment is only qua letting out of Flat No.1, having three shops, which had been allegedly, rented out to one Purvak Sharma. In the application, it is also stated that

rent deed has been executed by the landlord and if he bonafide required the demised premises, he would not have let out these three shops. However, the sale deed of Flat No.1, in question, as such, has come on record as Annexure P-13. Undisputedly, therein, there is mention made of this property to be residential property.

However, close perusal of the sale deed reveals that property in question, has been purchased by Smt.Agamdeep Kaur, wife of Sh.Prabhjot Singh, son of Jasjit Singh and ownership right as well as possession has been handed over to the buyer, at the spot. Said Agamdeep Kaur, undisputedly, is daughter of the landlord.

No doubt, in the ejectment petition, the landlord had projected the need for personal necessity for himself as well as his family and therein, he had also given details of his sons and daughter and also deposed about their need. This eviction petition was filed in the month of November 2015. The sale deed relating to Flat No.1 is dated 23.10.2021. It is evident that this property was purchased by Agamdeep Kaur, who is daughter of the landlord and her marital status is shown as wife of Sh.Prabhjot Singh. Then, this property belongs to married daughter of the landlord.

It is a separate thing that flat in question, has been converted into three shops and further rented out to one Purvak Sharma, but nowhere, it establish that this property was let out, at the instance of the present respondent-landlord. Even though, it is asserted in the application about rent deed to have been executed by landlord, but nothing, as such, is coming on record to this extent. The property owned by the married

daughter, as such, cannot ipso facto, be considered to be property of the landlord. Even though, in the application, it has been asserted about rent deed to have been executed by the respondents-landlord, but however, there is nothing, as such, coming on record, to so substantiate his version.

In the given circumstances, learned Rent Controller had rightly reached the conclusion about the present petitioners-tenants to have failed to show the proposed amendment, to be necessary for complete and final adjudication of the case. Moreover, it was also observed that the application in question was filed, at the fag end, when the case was fixed for arguments.

Considering the fact of one application after the other having been filed by the petitioners-tenants and also in view of the observation made by this Court in CR-548-2023, decided on 30.01.2023, the costs of Rs.50,000/-, was imposed, while dismissing the application. However, this imposition of costs is in pursuance of the order passed by the Coordinate Bench, in the aforesaid civil revision. As such, it does not call for any interference, in view of the dismissal of the application in question.

In the light of the aforesaid observations, the present revision petition sans merit and as such, is hereby dismissed.

April 27, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No