

**CR-1580-2019(O&M) &
other connected case**

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**205(4 cases) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CR-1580-2019 (O&M)

Renu Bala and anotherPetitioners....

vs.

Ishwar Kaur (since deceased) thr. LRs.Respondents.

2. CR-1589-2019 (O&M)

Renu Bala and anotherPetitioners....

vs.

Ishwar Kaur (since deceased) thr. LRs.Respondents.

3. CR-2712-2019 (O&M)

Ishwar Kaur (since deceased) thr. LRs.Petitioner.

vs.

Renu Bala and anotherRespondents.

4. CR-2675-2019 (O&M)

Ishwar Kaur (since deceased) thr. LRs.Petitioner.

vs.

Renu Bala and anotherRespondents.

DECIDED ON:-10.08.2023

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.K. Aggarwal, Advocate,
for the petitioner(s) in CR-1580-2019 and 1589-2019 and
for respondents (in CR-2675 and 2712-2019).

Mr. V.K. Rana, Advocate,
for the respondents (in CR-1580 and 1589 of 2019 and

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for the petitioner (in CR-2675 and 2712 of 2019).

HARKESH MANUJA J. (Oral)

CM-1578-CII-2023 in CR-1580-2019

CM-1721-CII-2023 in CR-2675-2019

CM-1818-CII-2023 in CR-1589-2019

CM-2060-CII-2023 in CR-2712-2019

Prayer in above mentioned applications is for placing on record Will of Ishwar Kaur as Annexure P-6 as well as exemption from filing certified/true typed translated copy of the same.

Applications are allowed. Copy of Will (Annexure P-6) is taken on record, subject to all just exceptions.

CM-1579-CII-2023 in CR-1580-2019

CM-1726-CII-2023 in CR-2675-2019

CM-1820-CII-2023 in CR-1589-2019

CM-2062-CII-2023 in CR-2712-2019

Prayer in all the four applications is for impleading the legal representatives of Ishwar Kaur-landlady (deceased).

Notice of the applications.

Mr. S.K. Aggarwal, Advocate accepts notice on behalf of the non-applicant and raises no objection to the applications for impleading the Lrs. of Ishwar Kaur-landlady (deceased).

For the reasons mentioned in the applications which are duly supported by separate affidavits, same are allowed and applicants-persons mentioned in para 2 of the applications are ordered to be impleaded as legal representatives of Ishwar Kaur-landlady (deceased), for the purpose of pursuing the four revision petitions.

Amended memo of parties are taken on record.

Main cases

1. This common judgment of mine shall dispose of above mentioned four civil revision petitions as same involve common question of law and fact. For convenience, the facts are being taken from CR-1580-2019 pertaining to rent petition titled as ***“Renu Bala and another vs. Ishwar Kaur (since deceased) thr. LRs.”***

2. By way of present revision petition, challenge has been laid to an order dated 05.02.2019 passed by the learned Rent Controller, Rohtak, whereby an application filed at the instance of respondent-landlady seeking amendment of eviction petition was partially allowed.

3. Briefly stating, two separate eviction petitions under Section 13 of the Haryana (Control of Rent & Eviction) Act, 1973 (hereinafter referred to “1973 Act”) came to be filed at the instance of respondent-landlady qua two shops bearing No.1 and 3, situated at Sohan Market, Quilla Road Bazar, Rohtak, against two different tenants *inter alia* on the grounds of arrears of rent, bonafide necessity of her grandson as well as the demised premises having become unfit and unsafe for human habitation. The aforementioned eviction petitions were contested by the petitioners-tenants. In the written statements, it was specifically submitted that two adjoining shops bearing No.2 and 4, which were got vacated under the orders of the Court in the year 2015, were again rented out and thus, the bonafide need as pleaded herein was not genuine.

4. During pendency, when the eviction petition was listed for rebuttal and arguments, an application seeking permission for its amendment was filed at the instance of respondent-landlady, which was opposed at the

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instance of petitioners-tenants, however, the same was partially allowed by the learned Rent Controller, vide order dated 05.02.2019, permitting the respondent-landlady to incorporate the factum regarding ownership of other properties owned by the petitioners-tenants, though denying incorporation of two other amendments.

5. The aforesaid order dated 05.02.2019, has been assailed in the aforementioned four revision petitions by the petitioners-tenants as well as respondent-landlady to the extent it affects their respective cause.

6. Learned counsel for the petitioners-tenants vehemently submits that by carrying out amendment at this belated stage, respondent-landlady intends to rebut the defence taken by the petitioners-tenants in the written statement as regards the occupation of adjoining shops bearing No.2 and 4 by new tenants having been rented out to them post eviction of previous tenants in the year 2015. He further submits that no amendment at all could have been permitted by the learned Rent Controller at the fag end of the trial and that too, when the proceedings were just about to culminate. He also submits that the amendment which the respondent-landlady has been permitted to incorporate in the eviction petition as regard the other properties owned by the petitioners-tenants was not at all relevant for the purpose of adjudication of the *lis*.

7. On the other hand, learned counsel representing respondent-landlady submits that the strict interpretation of Order 6 Rule 17 CPC were not applicable to the proceedings under the 1973 Act and the amendment sought to be incorporated was to only help the learned Rent Controller to adjudicate the rights of the parties in a complete and effective manner and

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also to bring on record the material facts which were conveniently withheld by the petitioners-tenants.

8. I have heard learned counsel for the parties and gone through the paper-book, I am unable to find substance in the submissions made on behalf of the petitioners-tenants.

9. No doubt, application seeking amendment of eviction petition was moved by the respondent-landlady, at the fag end of the trial, however, the same can't be declined on application of strict principles of procedure as laid under Order 6 Rule 17 CPC, the same being not to be made applicable to the rent proceedings in *stricto sensu*. In fact, the proceedings under 1973 Act are primarily governed by the self regulated procedure adopted by the authorities under the Act, based on principle of natural justice as well as the general fundamentals from the Civil Procedure Code. Moreover, the procedural provisions are always to be applied to further the cause of justice & to help the litigants to get their rights adjudicated upon, on merits, rather than being scuttled on account of technicalities. Rather than adopting hypertechnical approach, the Court are required to stretch the procedural provisions, as far as possible to aid the adjudication of substantive rights on merits unless those are misused in a malafide manner in order to merely delay the proceedings. My aforesaid view is even derived from observations made by this Court in case of "Shrisanatan Dharam Sabha (Regd.) Gangshala Bazar Hoshiarpur vs. Sita Devi, 2020(2) Rent Control Reporter, 34. Relevant paragraphs 11 and 12 of the same are reproduced hereunder:-

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10. Now coming to the present facts and for better understanding of

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the controversy in hand, the amendment sought to be introduced, in short is delineated herein below:-

(a) the rate of rent was enhanced from time to time with mutual consent and was lastly applicable @ Rs.879/- per month w.e.f. 01.07.2009 to 30.06.2014, even a writing to this effect was made between the parties on 01.07.2019, post registration of the rent deed;

(b) the landlady intends to mention the name of the grandson, besides, his age and qualification as well as the nature of business, which he proposes to run in the demised shops. Further, she intends to explain the occupation of shops No.2 and 4, which were got vacated from previous tenants in the year 2015 i.e. prior to the filing of the eviction petition.

(c) to provide particulars of the properties owned by the petitioners-tenants, besides, details about their employment.

A perusal of above shows that the amendments sought to be carried out are merely explanatory in nature, based on the very foundation existing in the original eviction petition just for removal of certain formal defects. Neither the landlady is trying to create any new case nor there is any change of nature of petition or relief. Nonetheless, the petitioners-tenants shall always be at liberty to defend themselves by filing their counter to the amended eviction petition.

11. Considering the fact that the amendments sought to be introduced go to the roots of the matter being essential for deciding the real controversy

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and would also enable the Rent Controller to adjudicate upon the right of the parties in a complete and effective manner, the revision petitions filed at the instance of petitioners-tenants are dismissed, whereas, the revision petitions filed at the instance of respondent-landlady are allowed and the application for amendment of eviction petition is permitted in *toto*.

12. Keeping in view the fact that the eviction petitions are pending since 2017, the learned Rent Controller is requested to dispose of the same within a period of 6 months from today after taking on record the amended pleadings and by affording two effective opportunities each to both the parties, so as to lead their evidence in support thereof.

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

10.08.2023
sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No