IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2945-2023 (O&M)
Date of decision: May 12, 2023

Ravinder Singh (since deceased through his LR)

….Revisionist

versus

M/s Guru Teg Bahadur Road lines

….Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. B.S. Bali, Advocate for the revisionist.

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ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 13.03.2023 (Annexure P-5) passed by learned Civil Judge (Junior Division), Ludhiana, whereby application under Order VI Rule 17 read with Section 151 of Code of Civil Procedure, 1908 (for short 'CPC') for amendment of eviction petition filed by revisionist/landlord, was dismissed.

2. The revision petition is premised on the averments that revisionist/ landlord filed eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against respondent/tenant from Shop No.15, Property No.B-XXIV-1044, Samrala Chowk, Jalandhar Road, Ludhiana on the grounds of non-payment of Rent w.e.f. 01.09.2012 at the rate of Rs.250/- per month on payment of house tax/ property tax at the rate of 15% per annum from 01.03.1994, *bona fide* requirement of revisionist for setting up office and library as revisionist is an advocate and doing practice at District Courts, Ludhiana.

2.1. During pendency of eviction proceedings, revisionist-Ashwinder Singh expired and his LR Ravinder Singh moved an application for his impleadment as legal representative of deceased on the ground that deceased died issueless and his marriage was dissolved by decree of divorce in the year 2012, and

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the demised premises were inherited by Ashwinder Singh being real brother who became owner/ landlord of property in question. Said application was allowed.

2.2. During pendency of proceedings, Ashwinder Singh moved an application (Annexure P-3) under Order VI Rule 17 read with Section 151 CPC for amendment of eviction petition before learned Rent Controller, to add following lines at the end of Para No.2(b) of the petition for effective and property adjudication of controversy between the parties:

> "*The premises in dispute and the four shops existing in the property No.B-XXIV-1044 are required by the petitioner to set up office and law library. Out of the four shops two has been got vacated from the tenants and two are still in occupation of tenants. The petitioner does not occupy any other built up/ commercial property except two vacant plots in the urban area concerned. The petitioner has not vacated any such property since the commencement of the East Urban Punjab Restriction Act in the Urban Area concerned*."

2.3. Vide impugned order dated 13.03.2023 (Annexure P-5), learned Rent Controller dismissed the aforesaid application.

3. Learned counsel for revisionist/landlord submits that necessary amendment ought to be allowed to avoid multiplicity of litigation and in Order VI Rule 17, word "Shall" is used, which is mandatory in nature, therefore, all amendments are to be allowed which are necessary for determining real question in controversy provided it does not cause injustice or prejudice to other side. He would further submit that it is settled law that after death of landlord during pendency of the case, LRs of landlord can seek amendment of pleadings to add ground of "his own personal necessity" in place of necessity alleged by original landlord and the same is not barred.

4. Considering the nature, facts and circumstances of the case, issuance of notice to respondent/tenant seems unnecessary and is, therefore, dispensed with.

5. I have heard learned counsel for revisionist and perused the case file.

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6. Trial before learned Rent Controller is still at a very nascent stage, since evidence is yet to be adduced. In any case, proposed amendment which revisionist wishes to carry out will neither change the nature of rent petition nor even otherwise prejudice the tenant as both the parties have yet to adduce their respective evidence.

7. Trite law it is that procedure is a handmaid of justice and, ought not be given precedence at the cost of subjugation of substantive justice. Prejudice would indeed be caused to revisionist unless afforded an opportunity to amend the rent petition.

8. Consequently, revision petition is allowed and impugned order is modified. Revisionist/landlord is permitted to amend rent petition before learned Rent Controller subject to payment of costs of Rs.5,000/- to be paid to respondent/ tenant, with liberty to the tenant to take the legally available pleas in answer to the amended eviction petition.

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

(ARUN MONGA)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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