

**122 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-3955-2023

Decided on:-17.07.2023

Jarnail Singh

....Petitioner..

vs.

Dr. Mohammad Yamin

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sherry K. Singla, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, challenge has been made to an order dated 28.03.2023 passed by the learned Rent Controller, Malerkotla, whereby prayer made on behalf of respondent-landlord seeking permission to withdraw the eviction petition with liberty to file a fresh one, has been allowed.

2. The only short submission made on behalf of petitioner is that even in the application filed at the instance of respondent-landlord, no formal or technical defect has been mentioned for seeking permission to withdraw the eviction petition with a liberty to file fresh one, however, learned Rent Controller without considering the facts and circumstances of the case has wrongly allowed the application. In support, he places reliance upon judgments of this Court in *“M/s Glass Palace vs. IndusInd Bank Limited and another, 2009(25) RCR (Civil)668*, *“Raj Kumar vs. Charan Dass and others”, 2015(2)RCR (Civil)207*, *“Sukhdev Singh vs. Inderjit Singh and another”, 2019(1) PLR 795*, *“Mukhtiar Singh since deceased*

through his LR. vs. Nirmal Singh and another”, 2019(2) PLR 304 and “*Smt. Praveen Sharma vs. Shri Jai Prakash Sharma and others*”, 2015(33) RCR (Civil) 424.

3. I have heard learned counsel for the petitioner and gone through the paper-book as well as the law cited at bar.

4. A perusal of judgments cited on behalf of the petitioner show that all the cases are relating to civil suits, wherein the proceedings are purely governed by the provisions under the Civil Procedure Code, however, in the present case, the matter in hand relates to an eviction petition under the provisions of East Punjab Urban Rent Restriction Act, 1949, wherein the provisions of CPC cannot be made applicable “*stricto sensu*”, but can be made applicable principally only.

5. Moreover, learned Rent Controller while passing the impugned order has clearly pointed out that the eviction petition filed at the instance of respondent-landlord could have been rejected for want of disclosure of other non-residential premises and the same has been considered to be a sufficient formal/technical defect for allowing the respondent-landlord to withdraw the eviction petition with a liberty to file fresh one on the same subject matter by giving complete particulars and details about the non-residential premises occupied and possessed by him. Once, sufficient cause is made out from the facts and pleadings available on record, mere non-mentioning of it specifically can’t be treated as fatal by adopting a hypertechnical approach. No doubt the parties to the *lis* can’t be taken by surprise, yet the strict principle of primary and basic pleadings can’t be applied to the ancillary pleadings, like such applications.

6. Equally important, once a landlord can be permitted to carry out necessary amendment in the eviction petition so as to incorporate the necessary ingredients and can't be non-suited on this account, it would be too harsh to decline the prayer for filing a fresh petition with complete and better particulars in this regard.

7. For the aforesaid reasons, I do not find any illegality or perversity in the impugned order dated 28.03.2023 passed by the learned Rent Controller accordingly, the present petition being devoid of merits is, hereby dismissed.

17.07.2023

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(HARKESH MANUJA)
JUDGE

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