

129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4983-2023 (O&M)
DECIDED ON: 29.08.2023

HARJEET SINGH SINCE DECASED THROUGH HIS LRS

.....PETITIONER

VERSUS

SHREE SANATAN DHARM MAHABIR DAL AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Vishal Aggarwal, Advocate and
Ms. Mona Goyal, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition assails the order dated 07.08.2023, vide which the application filed by the petitioner under Order 6 Rule 17 CPC seeking amendment in the reply filed by the present petitioner to the eviction petition was ordered to be kept pending and it was ordered that the same would be decided with the main case.

2. An eviction petition (Annexure P-1) was filed by the respondents-landlords seeking eviction of the petitioner-tenant from a shop situated near Hanuman Chowk, G.T. Road, Bathinda. The eviction petition was opposed by the petitioner-tenant by way of a reply (Annexure P-2). During the pendency of the eviction petition, an application under Order 6 Rule 17 CPC was filed seeking an amendment in the reply (Annexure P-3). The legal objection which the petitioner wanted to take by way of the amendment was with regard to the jurisdiction of the Rent Controller, Bathinda in view of the provisions of

Section 12 of The Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997. The application was opposed by way of a reply (Annexure P-4), in which it was averred that the application had been moved with an intention to delay the decision of the eviction petition.

3. By way of the impugned order, the Rent Controller, Bathinda opined that the application would be disposed of with the final arguments since the amendment pertained to a legal objection only and in case it was to be allowed, the amendment would be incorporated in the reply with red ink.

4. Since the decision of the present revision petition will not affect the rights of the respondents-landlords, notice is not being issued.

5. Learned counsel for the petitioner submits that the amendment sought was technical in nature and no evidence would be required to be led after the decision of the application and in case the application was to be allowed. Learned counsel submits that the view that the same would be decided alongwith the main case is erroneous.

6. I have considered the submissions made by learned counsel for the petitioner.

7. The solitary reason given by the Rent Controller, Bathinda for not deciding the application for amendment is that the case fell in the category of action plan cases and that since the amendment pertained to a limited extent of taking a legal objection, the same would be disposed of at the time of final arguments. In the considered opinion of this Court, the view is erroneous since the matter pertains to an amendment of the written statement. The Rent Controller, Bathinda should have taken a view either way and should have decided the application on merits. The view that if

the application was to be allowed, the amendment would be made in reply in red ink is also erroneous.

In view of the above, the present revision petition is allowed. The order dated 07.08.2023 passed by the Rent Controller, Bathinda is set aside. The Rent Controller, Bathinda is directed to decide the application for amendment on merits before deciding the main case.

29.08.2023
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

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