

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-3194-2023 (O&M)

Date of Decision: 14.7.2023

Harish Kumar

....Petitioner

VERSUS

Harleen Kaur and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Prateek Sodhi, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present revision petition has been filed by the petitioner against order dated 16.11.2022 whereby the application filed by the petitioner/tenant under Order 6 Rule 17 CPC seeking amendment of the written statement has been dismissed by the appellate authority, Yamuna Nagar at Jagadhri.

2. Counsel for the petitioner *inter alia* contends that the respondents filed one false rent petition against the petitioner on the ground of personal necessity for ejectment of the petitioner from the shop in question. Said ejectment petition was contested by the petitioner but was decided in favour of the respondents by the Court of Rent Controller, Yamuna Nagar at Jagadhri vide order dated 13.9.2019 and only respondent No.1-Harleen Kaur appeared in the witness box out of both the respondents during the said proceedings before the learned Rent Controller; that the appellant preferred appeal against the said order of eviction and the same is pending before the concerned appellate authority and during the pendency

of the appeal, the appellant came to know that both the respondents have effected partition and as per said partition, demised premises has fallen to the share of respondent No.2-Sharanjeet Kaur whereas respondent No.1-Harleen Kaur and her husband have received cash amount in lieu of their share in the demised premises and as such, respondent No.2 has become exclusive owner of the entire building and further, respondent No.2 has entered into an agreement to sell the said building with one Anil Lamba; that all the aforesaid subsequent events are to be brought to the notice of the appellate authority and for that purpose, the petitioner filed an application under Order 6 Rule 17 CPC for amendment of the written statement but the same has been declined by the appellate authority vide impugned order dated 16.11.2022.

3. Counsel for the petitioner further submits that it is a settled law that the Court could take note of the subsequent events and it would be open to the tenant to point out such events and the Court including the appellate authority has to examine and evaluate the same. In support of his arguments, counsel for the petitioner has placed reliance upon **Hasmat Rai and another v. Raghunath Prasad** (1981) 3 SCC 103. He further submits that the aforesaid subsequent events of fact which have a material bearing on the present case are required to be taken on record by the appellate authority by way of amendment in the written statement. So, prayer is made that the present petition be allowed.

4. I have heard counsel for the petitioner and gone through the paperbook.

5. Admittedly, the rent petition filed by both the respondents against the petitioner was allowed by the learned Rent Controller on the

ground of personal necessity and out of both the respondents, only respondent No.1-Harleen Kaur appeared in the witness box to prove the factum of personal necessity.

6. The appellant being aggrieved by the eviction order passed by the learned Rent Controller has filed appeal which is pending before the appellate authority concerned and the said appeal is pending since 2019 and during the pendency of the appeal, the appellant filed an application under Order 6 Rule 17 CPC to bring to the notice of the Court certain subsequent events having bearing on the case.

7. As per the appellant, during the pendency of the appeal, he came to know that the respondents partitioned their properties including the shop in question and as per said partition, demised premises has come to the share of respondent No.2 while in lieu of her share, respondent No.1 and her husband had taken cash amount and as such, respondent No.2 has become exclusive owner of the demised premises and further, respondent No.2 intends to sell the property in question to Anil Lamba and the parties have already entered into an agreement with regard to said sale.

8. This Court is of the view that the aforesaid subsequent events which the petitioner intends to bring to the notice of the Court are vague, indefinite and are ambiguous, the reason being the appellant has not disclosed as to in which year, the alleged partition took place between the respondents and on which date, month and year, respondent No.2 became exclusive owner of the shop in question. Further, even no date of alleged agreement to sell stated to be executed by respondent No.2 in favour of Anil Lamba regarding sale of the said property has been disclosed in the application for amendment of the written statement. The respondents are

seeking eviction of the petitioner from the shop in question on the ground of bonafide necessity and their plea has already been accepted by the learned Rent Controller vide order dated 13.9.2019. Being not satisfied, the appellant filed appeal in the same very year and is pending since then and now when the appeal is pending for the last more than 3 years, the petitioner filed application seeking amendment of the written statement. In the said application, no specific detail of the alleged subsequent events has been given. So, it appears that the said application was filed by the petitioner just to prolong the litigation between the parties.

9. In view of above, this Court is of the considered view that there is no illegality or infirmity in the impugned order passed by the Appellate Authority, Yamuna Nagar at Jagadhri dated 16.11.2022.

10. As per law settled by this Court in **Lal Chand and others v. Kishan Murari Goel and others** reported in 1995 (1) PLR 512, the provisions of CPC are not applicable to proceedings under the Rent Act in strict sense and the Rent Controller is free to devise appropriate procedure for deciding the rent petition filed before him. Further, the rent proceedings before the Rent Controller under the Rent Act is not a suit.

11. The appeal, if any, filed by the petitioner before the appellate authority is in continuity of the rent petition filed by the respondents. So, the ratio laid down in Lal Chand's case (supra) is also applicable to the appeal filed before the appellate authority by the tenant against the eviction order passed by the Rent Controller. Thus, in the instant case, in future, if the petitioner brings to the notice of the appellate authority any such subsequent events with specific details by way of an affidavit and supporting documents, the same may be considered by the said Court after

giving opportunity to the respondents to file counter affidavit to the same and then to examine, evaluate and adjudicate upon the same along with evidence already led by both the parties at the time of final disposal of the appeal in view of law laid down by Hon'ble Supreme Court in **Hasmat Rai's** case (supra).

12. The revision petition stands disposed of in the aforesaid terms.

(KARAMJIT SINGH)
JUDGE

July 14, 2023
Paritosh Kumar

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

