

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.109

Case No. : C. R. No. 7215 of 2023

Date of Decision : December 07, 2023

Ramesh Kumar Petitioner
vs.
Gurpreet Kaur Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Akhil Ahuja, Advocate
for the respondent/caveator.

* * *

GURBIR SINGH, J. :

1. Challenge in the present revision petition is to the order dated 08.11.2023, passed by learned Civil Judge(Senior Division)-cum-Rent Controller, Nabha, whereby application filed by the petitioner under Order 6 Rule 17 CPC, for amendment of written statement, has been dismissed.

2. The brief facts of the case, as culled out from the paper-book, are that the respondent/plaintiff filed a petition under the Punjab Rent Act, for eviction of the petitioner/defendant inter alia on the ground of personal necessity, as mentioned in para no.3 of the petition (Annexure P-1), which reads as under :-

“3. xx xx xx

(iii) *That the petitioner herself require the shop
in question for her daughter Dr.Maninderjit*

Kaur Sekhon who after getting training & required experience has to open her dental clinic in the shop in question, by getting the benefit of locality which is of heart of the city as well as being located just of the opposite side of Dr.Sanjay Mittal's Eye Hospital. The other two shops of petitioner though located in same lane at a distance of 15/20 shops from both sides are not much suitable as the present shop in question is. Further, the landlady is the master of her own choice & under the eviction laws a tenant is nobody to dictate the terms of his landlady. The petitioner or her above named daughter is not in possession of any other non-residential building which may be used for the intended purpose to settle her doctor daughter nor has vacated or got vacated within urban area of Nabha. Thus, need of petitioner is sincere, personal & bonafide."

3. After framing of issues, respondent-landlady led her evidence. The petitioner-tenant then moved application under Order 6 Rule 17 CPC for amendment of written statement, which has been dismissed.
4. Learned counsel for the petitioner has submitted that the respondent-landlady has stepped into the witness-box as her own witness and also examined her daughter Maninderjit Kaur Sekhon but they did not disclose that Maninderjit Kaur Sekhon is doing job in Usha Mata Public School, Nabha. The petitioner-tenant has now come to know the said fact of daughter of landlord doing job in the school, so, he wants to take the

additional plea that daughter of the respondent-landlady is already doing job as a teacher in Usha Mata Public School, Nabha and she does not intend to run any clinic. The petitioner does not need the shop for her personal necessity. The said plea is necessary for just decision of the case. The Court below dismissed the application on the ground that trial has already commenced. Reliance in this regard has been placed on a judgment of Hon'ble Supreme Court passed in Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another - Law Finder Doc Id # 2029338 and it has been contended that since amendment is necessary for just decision of the case, the same be allowed as no prejudice would be caused to the other party.

5. The record reveals that it is not mentioned in the application when the petitioner came to know about the fact asserted and even after due diligence, he could not incorporate these facts in the written reply.

6. Learned counsel for respondent-caveator has submitted that requirement of the landlady has to be seen on the date of filing of eviction petition. A person who has started litigation cannot sit idle nor can be estopped from doing any work. The petitioner-tenant is nobody to dictate terms to the landlady. The tenant is required to vacate the shop. In case daughter of the landlady does not occupy the same and open her clinic there, then he can get the possession restored. The application filed by the petitioner under Order 6 Rule 17 CPC, for amendment of written statement, has been rightly dismissed by the Court below.

7. I have heard submissions of learned counsel for the parties and perused the case file.

8. In case Life Insurance Corporation of India (*supra*), it is held by Hon'ble Supreme Court that all amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice to the rights of other party. In the case in hand, the petitioner-tenant only want to take additional plea that the daughter of respondent-landlady is working in a School. So, that would not adversely effect any right of the landlady.
9. Since the proposed amendment is necessary and all the amendments, which are necessary, are required to be incorporated, therefore, the present revision petition is allowed and the impugned order dated 08.11.2023, passed by learned Civil Judge(Senior Division)-cum-Rent Controller, Nabha, dismissing application of the petitioner, is set aside, subject to payment of Rs.10,000/- as costs, to be paid by the petitioner to the respondent.
10. Pending applications, if any, shall stand disposed of along with this judgment.

December 07, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.