

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

CR-852-2024 (O&M)

Date of reserve: 04.03.2024.

Date of Pronouncement: 15.04.2024.

Prince Lekhi

...Petitioner.

Versus

Kuldeep Kaur and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Argued by: Mr. Vishal Sodhi, Advocate
for the petitioner.

Mr. Kanwar Abhay Singh, Advocate
for the respondents.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 20.01.2024 (Annexure P-6), in RP/469/2022 vide which learned Rent Controller, Ludhiana, rejected the application filed by respondent No.2 (petitioner herein) seeking opportunity to file separate reply in petition under Section 13 of East Punjab Urban Rent Restriction Act (for short, 'the Act').

2. The brief facts as per the rent petition are that respondents No.1 to 3/ landlords filed a petition for ejectment of the revision petitioner and respondent No.4 under Section 13 of the Act, from two shops measuring 7'x15' and 12'x15' feet being property bearing No.B-19-1387, situated at Rajpura Road, Tehsil and District Ludhiana on the ground of bonafide

requirement and arrears of rent. The said ejectment petition was filed on the basis of rent agreements dated 10.06.2005 and 29.11.2006 allegedly executed with the revision petitioner and respondent No.4 by Late Sham Singh (landlord), the predecessor-in-interest of respondents No.1 and 3. It was alleged in the petition that Late Shri Sham Singh let out one shop measuring 7'x15' feet to revision petitioner and respondent No.4 in the year 2005 on rent @ Rs.7500/- per month with the condition that rent will be increased 5% every year as long as the tenants will keep the shop on rent. Thereafter, another shop in the month of November, 2006 measuring 12'x15' feet, adjacent to the present shop was let out vide rent agreement dated 29.11.2006 on rent @ of Rs.8500/- per month. The wall, which was between the two shops, was removed with the consent of Late Sham Singh. The revision petitioner and respondent No.4 after taking the shops on rent started their business of dealership of Airtel Company under the name and style of M/s Telezone. The rent was paid by the revision petitioner and respondent No.4 from the accounts of M/s Telezone, their partnership firm/business. It was further averred that in the year 2009, the revision petitioner and respondent No.4 vacated one shop measuring 12'x15' feet and handed over the possession to Late Sham Singh, who again let out the said shop to them on the previously monthly rent basis. Harjot Singh Harikay i.e. petitioner No.3, who is an advocate by profession and practicing as such in the District & Sessions Courts, Ludhiana, started evening office at both the said shops in dispute. Thereafter, the revision petitioner and respondent No.4 shifted their business at Ramnagar, near Damoriya Bridge in the name and style of Kundal Lal Communication in the year 2016-17. In spite of

vacating the shops, they took a complete somersault and started demanding illegally Rs.10,00,000/- for vacating the demised premises. The revision petitioner and respondent No.4 concealed this material fact in civil suit titled as 'Deepali Sood and another Vs. Sham Singh and others' bearing No.CS/4293/2018 against Late Sham Singh and his family members. It has been alleged that after filing the false and frivolous case, they neither paid nor tendered the arrears of rent to Late Sham Singh and his family members. They have made the payment of rent up to July, 2018 and thereafter, they have defaulted in paying the rent. Then it came to the notice of the petitioners/ landlords that they have now started commercial business with Vodafone company without the permission from the Court as well as from the petitioners/ landlords, which is completely ultra vires the clause mentioned in the rent agreement executed between the parties.

3. After the death of Sham Singh on 04.08.2020, the entire property including the shops in dispute were inherited by the petitioners/ landlords as his legal heirs and mutation No.7845 was sanctioned in their names. Three years before his death, Late Sham Singh requested them to vacate the above said shops in dispute as he wanted to give the above said shops in dispute to his younger son. So ejectment of the revision petitioner and respondent No.4 was sought due to they being in arrears of rent as they did not tender the arrears of rent @ Rs.20,000/- per month w.e.f. 10.07.2018 till date. It has also been alleged that the petitioners/ landlords bonafidely require the shops in dispute for the use and occupation of petitioner No.3 i.e. Harjot Singh Harikay and they want to open an Advocate office for petitioner No.3 in the shops in dispute. The shops in question are most

suitable to the petitioners/ landlords as these are centrally located on Rajpura Road, Ludhiana, where clients can easily approach and there is ample parking space available. The petitioners are not occupying any other suitable commercial property within municipal limits of Ludhiana City except one property situated at Bindraban Road, Ludhiana, in which the petitioners are presently residing and one property situated near bus stand Ludhiana, but both these properties are not suitable for starting Advocate Office.

4. After notice in the aforesaid rent petition, the respondents (as referred to in original petition) appeared and filed joint written statement. Thereafter, during pendency of the rent petition, an application was filed by respondent no.2 (petitioner herein) for granting permission to file a separate reply on behalf of respondent No.2 to the petition under Section 13 of the Act filed by the petitioners, on the averments that due to crisis in the Global Market, on 31.03.2012, respondent No.2 left the company of respondent No.1 by handing over the possession of the tenancy premises to respondent No.1 and since then respondent No.1 is looking after the tenancy premises as well as business completely and since then respondent No.2 has no concern with the tenancy premises and it was further agreed that respondent No.1 will pay the rent of the tenancy premises to the petitioners and to this effect one dissolution deed was also reduced into writing between respondents No.1, 2 and Davinder Singh Sood. In the year 2018, respondent No.1 approached respondent No.2 and requested him to sign some documents as she was having a dispute with landlord Sham Singh on the pretext that since the rent deed was originally executed between the

applicant and respondent No.2 and Sham Singh, so the signatures of respondent No.2 were required for filing suit for permanent injunction. Respondent No.2 believed the version of respondent No.1 to be true and correct and did not doubt the integrity of respondent No.1 and he signed on the suit for permanent injunction and other documents required for filing the suit. Thereafter, in the month of October, 2023, respondent No.2 received summons through the Court regarding the case filed by respondent No.1 and thereafter respondent No.2 inquired about the status from respondent No.1 and then respondent No.1 did not give satisfactory reply and thereafter he engaged counsel and inquired about the litigation pending between respondent No.1 and the petitioners and then he came to know that the petitioners have filed the petition under Section 13 of the Act in which respondent No.2 had been arrayed as party and rent has been claimed from him. Respondent No.2 also came to know about the suit for permanent injunction in which respondent No.2 was alleged as a tenant on the basis of rent note whereas respondent No.2 has already vacated and handed over the vacant possession of the tenancy premises on 31.03.2012, as per dissolution deed. It was alleged that the rent whatever being paid by respondent No.1 was in her own capacity and respondent No.2 moved application to withdraw the said suit qua him. So respondent No.2 has been left with no interest, concern and title with the demised premises since 31.03.2012. It was also alleged that the reply filed by respondents No.1 to 3 in the rent petition does not bear the signatures of respondent No.2 and he is not having any knowledge of the filing of the said reply, so he was legally entitled to file the separate reply to the present rent petition. It was

submitted that the version of the petitioners is totally false and frivolous regarding claiming of rent from respondent No.2 and he is not liable to pay such rent since 31.03.2012, so permission was sought from the Rent Controller to file the separate reply in the rent petition.

5. Reply to the said application was filed by the petitioners alleging that the respondents/tenants committed fraud not only with the petitioner but also with the Court. They filed an injunction suit against the present petitioner on 21.08.2018 by falsely mentioning the facts that the present petitioner alongwith Late Sham Singh with the help of anti social elements tried to dispossess Prince Lekhi and Deepali Sood forcibly and illegally. Now Prince Lekhi took a complete somersault in the aforesaid application dated 16.01.2024 and started alleging that he had already handed over the tenancy premises on 31.03.2012 as per the alleged dissolution deed. On the alleged wrong facts, the trial Court granted injunction against the petitioner. It was further alleged that after having been served in the present rent petition, Prince Lekhi, engaged Shri Ajay Chawla, Advocate as his counsel and filed his duly signed Power of Attorney in the Court and pursued the present rent petition with his counsel and also filed the written reply of the present petition. When the case was at the stage of assessing the rent then the respondent No.2 filed this false and frivolous application for seeking permission to file a separate reply.

6. The aforesaid application filed by respondent No.2 for seeking the permission to file separate reply in the rent petition was dismissed by the Rent Controller, vide order dated 20.01.2024. Aggrieved against the said order, the revision petitioner (respondent No.2 before Rent Controller) has

filed the present revision petition before this Court.

7. Learned counsel for the revision petitioner has contended that by filing a separate reply before the Rent Controller, the petitioner (respondent No.2) wanted to bring the material fact on record that he had left his joint business from the demised premises in the year 2012, so he is not liable to pay any such rent and he has nothing to do with the demised premises since 31.03.2012. But while passing the impugned order, the said prayer has been declined by the Rent Controller, which has caused serious prejudice to the revision petitioner (respondent No.2). He has contended that since the petitioners/landlords are claiming arrears of rent w.e.f. July, 2018 onwards in their eviction petition, therefore having regard to ceasing of tenancy of the revision petitioner, no claim of petitioners/landlords survives either for arrears of rent or ejectment from both the shops against the revision petitioner. He has further contended that the earlier reply filed to the rent petition is only signed by respondent No.4, so it cannot be considered to be the defence statement of the revision petitioner. The revision petitioner has an independent right to defend his case. The revision petitioner has also withdrawn the said civil suit for permanent injunction dated 16.01.2024 filed on behalf of respondent No.4 in the year 2018 against the petitioners/ landlords. He has submitted that the Rent Controller has committed great illegality in not granting an opportunity to the petitioner to defend his right and interest by filing separate reply to the rent petition, which is violation of the principles of natural justice. He has contended that as such impugned order dated 20.01.2024 limiting the right of the petitioner by declining his application to file separate written reply is

totally illegal, cryptic, perverse and unsustainable under the law. In support of his contentions, he had relied upon the judgment of Hon'ble Supreme Court in **Bharat Kalra Vs. Raj Kishan Chabra, 2023 (3) PLR 346; Siddalingayya Vs. Gurulingappa and others, 2018 (1) R.C.R. (Civil) 543 and Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation, 2002 (1) R.C.R. (Rent) 514.**

8. Per contra, learned counsel for the respondents No.1 to 3 has filed the written submissions. He has contended that after having filed a joint written statement alongwith respondent No.4 before the Rent Controller, present petitioner cannot withdraw the same to file a fresh and separate written statement. He has further contended that the revision petitioner alongwith respondent No.4 has been jointly pursuing the matter before the Rent Controller and both were being represented by same counsel and revision petitioner also appended his signatures on multifarious applications filed along with respondent No.4. The revision petitioner has earlier filed a suit for permanent injunction with regard to property in dispute, so the revision petitioner cannot be allowed to alter his admission made in the written statement dated 22.08.2023. In support of his contentions, he has placed reliance upon decisions in **Thakorbbhai Haribhai Patel Vs. Shree Dakshin Gujarat Ahir Samaj Seva Sangh and others, 2010 (8) R.C.R. (Civil) 2573; Sameermal Runwal Vs. Prakashchandra Kothari and others, 2011(2) R.C.R. (Civil) 512 and Kallampudi Narayanappa Vs. Kaligotla Suryanarayana and others, 1950 AIR (Madras) 46.**

9. I have heard learned counsel for the parties and have gone

through the relevant record.

10. Order 8 Rule 1 of Code of Civil Procedure deals with written statement, set off and counter claim, which reads as under:-

“[Written Statement, Set-Off and Counter Claim]

Written Statement:- The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not later than ninety days from the date of service of summons.”

11. But there is no such provision in the CPC for cancelling or setting aside a written statement filed and substituting it with a fresh one. In the instant case, the revision petitioner is seeking substitution of the earlier written statement on record by filing a fresh one by cancelling or setting aside the earlier written statement that is already on record. The revision petitioner has not sought amendment in the written statement, rather he wants to set at naught the earlier written statement by filing a fresh one.

12. The perusal of the record reveals that a detailed written statement was filed on behalf of the revision petition and respondent No.4 before the Rent Controller. The perusal of the said written statement reveals that in the head note itself, it has been mentioned “ Written Statement on behalf of the respondents”. Though this written statement has been signed only by respondent No.1 Deepali Sood, yet it is immaterial, as the written statement dated 22.08.2023, contains signatures of respondent No.4 as well

as signatures of the Advocate engaged by revision petitioner. From the perusal of record, it also transpires that the revision petitioner was pursuing the matter jointly with respondent No.4. They were being represented by the same counsel before the Rent Controller. Besides that, revision petitioner has appended his signatures on various applications filed along with respondent No.4. In the impugned order, it has also been specifically mentioned that even transfer application before the District and Sessions Judge, Ludhiana had been filed by them jointly. Moreover, the revision petitioner had jointly filed a suit for permanent injunction bearing No.CS/4293/2018, regarding the same property in dispute in 2018 alleging that the petitioners/ landlords alongwith Late Sham Singh with the help of anti social elements tried to dispossess Prince Lekhi and Deepali Sood forcibly and illegally from the demised premises. Thus, the revision petitioner took a complete somersault in the present application dated 16.01.2024 while alleging that he had already handed over the vacant possession of tenancy premises on 31.03.2012 as per the alleged dissolution deed.

13. So, from the facts and circumstances of the present case, it is clearly made out that the written statement dated 22.08.2023 that has been filed before the Rent Controller had been jointly filed on behalf of the revision petitioner and respondent No.4. There is no provision in the CPC for cancelling or setting aside the written statement already filed substituting it with a fresh one. As the earlier statement had been filed under Order 8 Rule 1 CPC, it cannot be said that Order 8 Rule 1 CPC would apply for substitution of a fresh written statement in the place of the one already

filed under Order 8 Rule 1 CPC. The judgments cited by learned counsel for the respondents squarely cover the present case. However, the case law cited by counsel for the revision petitioner is of no help to him being not applicable to the facts of the case in hand, as all these cases are pertaining to the facts where the written statement could not be filed within the time limit prescribed for filing of the written statement under Order 8 Rule 1 CPC.

14. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

15. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

15.04.2024.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No