

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****CR No.3466 of 2024****Date of Decision : 31.05.2024**

Inderjit Chopra

....Petitioner

VERSUS

Raj Rani and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Raghav Soni, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 06.05.2024 passed on an application filed by the petitioner-tenant herein for amendment of the written statement.
2. The brief facts relevant to the present *lis* are that the respondent-landlords filed an ejectment application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 on the grounds of arrears of rent and personal necessity. The petitioner-tenant appeared for the first time on 16.10.2018 and filed his written statement on 02.03.2019. On 10.02.2022 the provisional rent was assessed and the case was adjourned to 29.03.2022 for making payment of rent. On 29.03.2022 the provisional rent was paid and issues were framed. The respondent-landlords closed their evidence on 13.03.2023. Thereafter, an application was filed by the petitioner-tenant herein for recalling the witness PW1 Pritpal Singh, which was allowed on

11.05.2023, and thereafter he was cross-examined on 18.07.2023. The petitioner-tenant commenced his evidence and during the course of evidence moved an application under Section 151 of the Code of Civil Procedure, 1908 which was later withdrawn. Thereafter, the present application was filed. The application for amendment of the written statement merely states that due to inadvertence, typographical and clerical mistake, some facts could not be mentioned in the written statement by the petitioner-tenant and hence the proposed amendment was sought for adding para No.4 of the preliminary objections and para No.1 on merits, which reads as under :

(i) That para No.4 of Preliminary objection of the written statement may be written as follows:-

4. That the petition is not maintainable in the present form.

(ii) That para No.1 on merits may be written as follows:-

1. Para No 1 of the petition is correct to the extent that Ved Parkash Kakkar was owner of shop in dispute and the petitioners are having land measuring 2 Kanals 3 Marlas bearing Khasra No.205//4/1 (2-1) and No.205//4/2 (0-2) situated at village Bhikhiwind, Tehsil Patti, District Tarn Taran and in the above said 2 Kanals 3 Marlas land the petitioners owned 21 shops and there are some vacant area in the property, there is also one residential house owned and possessed by

petitioners in the above said property which are suitable and sufficient for the alleged purpose of petitioners. It is incorrect and specifically denied as framed that two shops given on rent to the respondent. Rather one shop was given on rent which is fully detailed and shown as red in the site plan attached with the written statement. The site plan attached with the petition is wrong and is not correct according to actual position at the spot.”

3. Reply was filed to the said application. Vide the impugned order the amendment application was dismissed.

4. Learned counsel for the petitioner-tenant would contend that the said amendment is necessary and that the factum that the respondent-landlords own other properties came to his notice during the evidence being led by them.

5. Heard.

6. In the present case the petitioner-tenant put in appearance on 16.10.2018. Thereafter, after the respondent-landlords had closed their evidence and the evidence of the petitioner-tenant had commenced, an application was filed under Section 151 CPC, which was later withdrawn. Thereafter, the present amendment application has been filed. Though it has been argued by learned counsel for the petitioner-tenant that the factum of the respondent-landlords owning other shops came to his notice during the evidence being led by them, however, a perusal of the application (Annexure

P-3) reveals that the same is totally bereft of any such averment. The only averment made in the application is that due to inadvertence, typographical and clerical mistake some facts could not be mentioned in the written statement. It is trite that the law of amendments is more liberal where the amendments of the written statement are concerned. However, in the present case there is no reason forthcoming as to why the said fact could not be brought on the record at an earlier stage. The facts now sought to be introduced would necessarily amount to a *de novo* trial in the present case. The petition has been filed by the respondent-landlords on the ground of personal necessity and arrears of rent. The matter has been pending since 2018 and at this belated stage to permit an amendment which would lead to a *de novo* trial would not be in the interest of justice.

7. In view of the above, the present petition being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

31.05.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO