

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

CR-5319-2022 (O&M)
Date of Decision:-02.05.2024

JATINDER KUMAR KANDHARI AND ANR ... Petitioners

Versus

ROHIT GUPTA AND ANR ... Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Puneet Sharma, Advocate
for the applicants/respondents.

Mr. Tanvir Singh Attariwala, Advocate
for the non-applicants/petitioners.

RITU TAGORE, J. (Oral)

CM-3723-CII-2024

1. Heard on the application.
2. In view of the facts mentioned in the application, present revision petition is taken on board today itself along with application **CM-3058-CII-2023** and **CM-3059-CII-2023**.

Application stands disposed of accordingly.

CM-3059-CII-2023

1. Heard on the application.
2. In view of the facts mentioned in the application, the same is allowed and documents Annexure R-1 to R-5 are ordered to be taken on record, subject to all just exceptions.

CR-5319-2022 (O&M)

1. This revision is directed against the order dated 30.08.2022 (Annexure P-1), whereby application under Order 6 Rule 17 of the Code of Civil Procedure (in short 'CPC') (Annexure P-5) for the amendment of written statement by the petitioners has been dismissed by the learned Rent Controller, Jalandhar.

2. Learned counsel for the petitioners submits that by way of amendment application (Annexure P-5) petitioners want to explicate the fact in their written statement that rented premises is situated on the ground floor of the building, whereas the entire first floor of the building in which rented premises is situated and the another portion of same building on the ground floor, are lying vacant and are in possession of the respondents-landlords. The requirement of the respondents to establish the office of M/s Vinod Kumar Gupta, can be met with from the other portion of the building situated on ground floor as well as on the first floor of the premises.

3. The learned counsel submits that the aforesaid amendment is necessary in order to put on record the true and actual facts regarding the rented premises. In the petition, respondents/landlords have not specifically explained the position regarding the rented premises, nonetheless the fact that the petitioners are occupying the ground floor as tenants as detailed in the application for amendment has not been disputed by the respondents. Rather, statement of Vinod Kumar Gupta as PW-1, the landlord (Annexure R-2), site plan (Annexure R-3) and the rejoinder (Annexure R-1) support the version of the petitioners. It is stated by learned counsel that amended is necessary for complete and effective adjudication of the controversy.

However, learned Rent Controller fell in error in rejecting the application on rigid technicalities.

4. Contra, learned counsel for the respondents could not deny the fact that rented premises occupied by the petitioners is situated on the ground floor of the building and same is also pleaded in the rejoinder (Annexure R-1) and is reflected in the site plan (Annexure P-3) as well as detailed in the deposition of Vinod Kumar as AW/1 (Annexure R-2).

5. I have heard the learned counsel for the parties and have gone through the record with their valuable assistance.

6. It is a matter of record that respondents-landlords have filed a petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 for the ejectment of the petitioners from the portion of the property bearing No.E.F.6 (now number as 31) situated as Mandi Fenton Gunj Jalandhar as detailed in the site plan attached (Annexure A) and described with the boundaries as detailed in the petition. The learned Rent Controller, Jalandhar dismissed the application on the grounds that same was moved at belated stage and further the petitioners have take inconsistent stand, which cannot be termed as inadvertent/typographical mistake.

7. The landlord petitioner Vinod Kumar (PW-1) has deposed that petitioners (respondents before the trial Court) are in occupation of the ground floor as tenant. It is also stated in their rejoinder (Annexure R-1) and is also reflected in the site plan (Annexure P-3). Given the pleading, to the considered opinion of this Court, learned Rent Controller fell in error in disallowing the application for amendment of the written statement, by virtue

of which, petitioners (respondents) wanted to clarify the location and the area of the demised premises, occupied by them.

8. It is fundamental principle of law that parties should be allowed to bring on record all the material facts that may enable the Court to decide the controversy completely and judiciously. The purpose of amendment is to narrow down the controversy by placing all material facts clearly on the record. The Court should assist the parties in bringing on record the complete facts than to prevent them from exercising their rights on rigid technicalities.

9. In view of the aforesaid discussions, the impugned order dated 30.08.2022 (Annexure P-1) cannot withstand judicial scrutiny and the same is hereby set-aside. The learned Rent Controller, Jalandhar shall provide one effective opportunity to the petitioners to file their amended written statement.

10. The case being old, it is expected that the parties to the *lis* shall co-operate with the learned Rent Controller and shall conclude their evidence expeditiously so as to bring the case to its logical end without taking any undue adjournment.

11. Accordingly, present revision petition is allowed.

12. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

02.05.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No