

2024:PHHC:172940



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CR-6276-2024 (O&M)

Date of decision: 28.10.2024

M/s Brij Lal Surinder Kumar and others

...Petitioners

Versus

Shree Ramji Dass Educational and Charitable Trust

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Ms. Mona Goyal, Advocate for the petitioners.

VIKAS SURI, J.

1. The present revision petition has been filed by the petitioner-tenants assailing the order dated 29.08.2024 (Annexure P-1), whereby the application for framing of additional issues as well as taking into consideration subsequent events by way of judicial notice, by petitioner (Krishan Kumar), has been dismissed.

2. Briefly, the respondent-landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Rent Act') seeking ejectment of the petitioners from the godown.

2.1 Upon notice of the ejectment application, it was opposed by filing reply thereto.

2.2 From the pleadings of the parties, issues were framed vide order dated 14.09.2018 (Annexure P-4), and thereafter, the parties led



their respective evidence. The respondent-landlord closed his evidence in affirmative on 18.05.2022, whereas the petitioner-tenants closed their evidence on 18.03.2024. At that stage of the proceedings, when the matter was pending for final arguments, the application (Annexure P-5) for framing additional issues as well as taking into consideration subsequent events was filed, on 09.04.2024.

2.3 After considering the rival contentions of the parties, the said application was dismissed, vide order dated 29.08.2024.

3. Aggrieved by the said order passed by the learned Rent Controller, the instant petition has been filed.

4. Learned counsel for the petitioners has emphatically argued that the proceedings before the learned Rent Controller are of legal and civil nature and though provisions of Code of Civil Procedure, 1908 (for short, 'CPC') are not applicable to proceedings under the Rent Act, but its principles, which are basis and foundation for the administration of justice, are applicable. Hence, the procedure for framing of issues would also be applicable to such proceedings. Reliance is placed upon *Smt. Vidya Devi vs. Firm Madal Lal Prem Kumar*, 1971 PLR 61, *Banke Ram vs. Shrimati Sarasvati Devi*, 1977 PLR 112, *Kuljit Singh Sehgal vs. M/s Gupta Agencies and another*, 1992(1) RCR (Rent) 331, *Chander Bhusan Anand vs. Devinder Kumar Singla*, 2010(1) RentLR 23 and *Ram Niwas vs. Sheila Devi*, 1988(1) RCJ 372.

4.1 It has been further argued that the provision of Order 14 Rule 5 CPC, which expressly permits amendment of issues or framing of



additional issues, is thus, also applicable to rent proceedings. Such amendments or additional issues can be permitted at any time before passing of decree, and therefore, the learned Rent Controller was not correct in dismissing the application moved by the petitioner-tenants.

5. At this stage, Mr. Ankush Singla, Advocate with Ms. Parul Sarvar, Advocate, has caused appearance on behalf of the respondent-landlord and filed his memo of appearance.

6. Learned counsel for the respondent-landlord, on the other hand, has argued that the application has not only been dismissed for having been moved at a belated stage, but also after examining the issue on merits, by concluding that the additional issues sought to be framed were covered under the issues already framed vide order dated 14.09.2018. It is further submitted that the issues were originally framed after hearing both the parties and from 14.09.2018 till moving of the present application on 09.04.2024, the petitioner-tenants had never raised any objection that any other issue arises. Both the sides were fully aware of their respective case based upon the pleadings on record and have led evidence accordingly. It is further contended that the petitioner-tenants had earlier moved an application before the learned Rent Controller alleging that the respondent-landlord had concealed the fact of getting physical vacant possession of five different properties from different tenants, and the petitioners had sought to bring on record the said material, which application was allowed, vide order dated 11.03.2024. Hence, the application dated 09.04.2024 (Annexure P-5), is stated to have



been filed with the sole purpose of delaying the trial, which is at the stage of final arguments. Learned counsel for the respondent has also produced in Court a copy of the proceedings before the learned Rent Controller, since inception of the eviction proceedings under the Rent Act, from 07.12.2017 till 24.10.2024.

7. I have heard learned counsel for the parties and with their able assistance, perused the material brought before this Court.

8. The factual aspect is not in dispute. The eviction petition was instituted on 07.12.2017, the reply thereto was filed on 09.05.2018 and the issues were cast vide order dated 14.09.2018. The operative part of the said order, reads thus:

“... From the pleadings of the parties, following issues are framed as under:-

1. Whether the respondent/tenant is liable to be evicted from the tenanted premises? OPA
2. Whether the tenanted premises are bonafidely required by the applicant for its personal use and occupation? OPA
3. Whether the applicant has no locus standi or cause of action to file the present application? OPR
4. Whether the application is not maintainable? OPR
5. Whether the application is bad for non-joinder of necessary parties? OPR
6. Whether the applicant is estopped from filing the present application? OPR
7. Relief.

No other issue arises from the pleadings of the parties and nor any other issue has been pressed by the parties. Hence, file be put up on 01.10.2018 for



evidence of Aws at own responsibility on filing the list of Aws PF/DM within 7 days.”

9. Thereafter, the parties adduced evidence to prove their respective case and availed sufficient opportunity for the same. The petitioner-tenants had moved an application for filing certified copy of four separate orders as respondent evidence, to establish that the landlord had concealed the fact of obtaining physical vacant possession of five separate properties from different tenants. The said application was allowed vide order dated 11.03.2024. The operative part is reproduced hereunder:

“By way of the present application, respondent seeks to file certified copy of order dated 05.01.2024, 03.03.2020, 15.05.2023 and 09.12.2023 in the respondent evidence to prove the fact that landlord has concealed the fact of getting physical vacant possession of 5 different properties from different tenants. A perusal of the reply of main application filed by respondent/applicant in para No. 9 also shows that he has taken the specific objection that landlord/petitioner is owing and possesses various other prime commercial properties at Bathinda which are available with the applicant and he has concealed the material fact from the Court. In the larger interest of justice, this Court deems it appropriate to allow the above-said application and to give an opportunity to the respondent to furnish the said orders as stated in the application.”

10. Thereafter, the petitioner-tenants closed their evidence, vide order dated 18.03.2024 and the proceedings were deferred for rebuttal



evidence and for arguments. The rebuttal evidence was led on 21.03.2024 and the case was adjourned to 30.03.2024 for final arguments. On the said hearing, arguments were not advanced and the proceedings were further deferred to 18.04.2024, when the present application for framing additional issues as well as taking into consideration subsequent events was filed.

11. I have meticulously perused the impugned order and the documents appended with the present petition, as well as the record of proceedings before the learned Rent Controller produced in Court at the hearing. A perusal of the impugned order would show that the issues sought to be cast as additional issues have been duly considered in para 5 thereof and have been found to be covered under the issues already framed on 14.09.2018, extracted hereinabove. The powers vested under the provisions of Order 41 Rule 5 CPC are discretionary, but the same must be exercised to secure a proper and effective determination of the matters in controversy. Such determination can only be done after examining the issues already framed and the proposed additional issues or those sought to be re-cast. In the present case, evidence with respect to the proposed issues has concededly already been led by the parties under the issues framed vide order dated 14.09.2018. The learned Rent Controller, on consideration, concluded that the issues already framed cover the proposed issues. Learned counsel for the petitioners is not in a position to demonstrate as to how the said finding is perverse or as to which of the proposed issue is not covered under the issues already framed.



12. It is not in dispute that the procedural law permits amendment or framing of additional issues at any time before passing of decree, i.e. at any stage of trial before pronouncement of judgment. However, such discretionary jurisdiction is required to be exercised judiciously and when necessary for complete and effective adjudication of the matters in controversy.

13. A perusal of the timeline noticed hereinabove also goes to show that the application in question has been filed only with a view to delay and protract the trial. The petitioner-tenants had earlier moved an application for bringing on record their evidence with regard to the subsequent events, which was allowed vide order dated 11.03.2024. A similar prayer, though couched differently, has again been made in the present application, seeking the learned Rent Controller to take judicial notice of subsequent events which were already permitted to be brought on record vide order dated 11.03.2024. Even if viewed from another aspect, the parties knew their case and have accordingly, led evidence after availing ample opportunity. Both the parties had closed their evidence of their own volition, which clearly demonstrates that the points at issue were well understood by either side and none has been prejudiced on that count.

14. For the foregoing reasons, the impugned order passed by the learned Rent Controller cannot be faltered with. Moreover, no ground or prejudice has been shown so as to warrant interference with the impugned order by this Court, in exercise of its revisional jurisdiction.



15. Resultantly, the present petition being bereft of merit, is dismissed.

October 28, 2024
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(VIKAS SURI)
JUDGE

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