

**CR-781-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(350)****CR-781-2024****Date of Decision: - 12.05.2025****Sunita and another****....Petitioners****Versus****Ajay Kumar Sharma****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Ms. Parbeen Kumari Dharwal, Advocate
for Ms. Gunjan Mehta, Advocate, for the petitioners.

Mr. Ajay Jain, Advocate, for the respondent.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 05.01.2024 (Annexure P-7) passed by the Rent Controller, Hisar allowing the application for amendment of the eviction petition for making averments in order to comply with the statutory requirement of Section 13(3)(a)(i) of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter to be referred as 'Act of 1973').

2. Learned counsel for the petitioners has submitted that in the present case, the landlord/respondent had filed a petition under Section 13 of the Act of 1973 in the year 2019 and the issues were framed on 06.07.2021 and even the evidence of the respondent-landlord was closed on 04.03.2022 and it was only on 09.11.2022 when the respondent-landlord had filed an application seeking amendment for incorporating



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the averments with respect to the ingredients of Section 13(3)(a)(i) of the Act of 1973. It is further submitted that the same was done after the commencement of trial and the same is not permissible as it can not be said that the amendment sought was a subsequent event after the issues had been framed. It is argued that the impugned order vide which the application for amendment has been allowed is illegal and deserves to be set aside and the application filed by the respondent-landlord for amendment deserves to be dismissed.

3. Learned counsel for the respondent-landlord, on the other hand, has submitted that the only amendment which was sought to be made in the petition was in order to meet the mandatory provision of Section 13(3)(a)(i) of the Act of 1973 and for the said purpose, no prejudice would be caused to the petitioners. It is further submitted that in the written statement, no objection had been raised by the petitioners-tenants with respect to the aspect that the said ingredients had not been mentioned in the petition. It is argued that in the written statement, it had also not been stated by the petitioners-tenants that the landlord was actually in occupation of any other premises or had vacated any such premises after the Act came into force. It is further argued that this Court has repeatedly allowed similar applications for amendment and thus, the impugned order is meritorious and deserves to be upheld. In support of his arguments, reliance has been placed upon a judgment of the Co-ordinate Bench of this Court in case titled as “*Hari Krishan Vs. Ashok Kumar Kalra and another*, reported as 2020(2) RCR (Rent) 1 as well as



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the judgment of the Co-ordinate Bench of this Court in case titled as ***“Rahul Jain Vs. Prahlad Singh”, reported as 2014(4) RCR (Civil) 965.***

4. This Court has heard learned counsel for the parties and has perused the paper-book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.

5. The respondent-landlord had filed an eviction petition under Section 13 of the Act of 1973, as amended up to date, with respect to ground floor of residential House No.1398, measuring 150 sq. yards, situated at Sector 13-P, Hisar. Para 3(ii) of the said petition is reproduced herein below: -

“3. That the respondents are liable to be evicted from the demised premises on the following grounds:-

xxx xxx xxx

(ii) That the petitioner required the demise premises for his own use, occupation and necessity. There is no property stands in the name of petitioner in the urban area of Hisar city. The petitioner is now working at Gurugram in Oriental Bank of Commerce and petitioner has no residential house in his name. The said property was purchased by the petitioner for his own residential house as there is no other property stands in the name of petitioner.”

6. In the written statement, in response to the averments made in the said para, the following averments were made:-

“3. That para No. 3 of the eviction petition is wrong & hence denied. The respondents are not liable to be eviction from the demised premises.

xxx xxx xxx

(ii). That para No. 3(ii) of the eviction petition is wrong &



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hence denied. That the petitioner does not requires the premises for his own use occupation and necessity. The present petition is totally false. The petitioner is residing in Gurugram and having his own residential accommodation there. The averments made in the eviction petition are totally false, frivolous & vexatious, baseless & vague, therefore, the eviction petition deserves to be dismissed.”

7. It has been pointed out on behalf of the respondent-landlord, which has not been disputed on behalf of the petitioners-tenants, that in the written statement, no plea with respect to the non-mentioning of the ingredients of Section 13(3)(a)(i) of the Act of 1973 had been specifically raised by the petitioners-tenants and that it was not the case of the petitioners-tenants that the respondent-landlord was occupying any other residential building in the urban area concerned i.e. Hisar or that the respondent-landlord had vacated any such building after the commencement of the Act.

8. Present respondent-landlord had filed an application for amendment in order to add certain lines at the end of paragraph 3(ii) of the petition and the same are as under: -

"The petitioner is not occupying any other residential building in the urban area of the Hisar and has not vacated any such building after the commencement of the East Punjab Rent Act, 1949 in the said urban area."

9. Thus, by virtue of the amendment, the present respondent only wanted to make specific averments which were in consonance with the provision of Section 13(3)(a)(i) of the Act of 1973. The Rent Controller vide order dated 05.01.2024 allowed the said application and observed that the amendment would not prejudice the tenants and that



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apparently, the ingredients were not pleaded on account of oversight.

10. It would be relevant to mention that any delay in the proceedings on account of such amendment would primarily harm the present respondent who is the landlord and who is seeking eviction from the premises in question.

11. A Co-ordinate Bench of this Court in the case of **Hari Krishan** (*supra*) had referred to several judgments, in which, it was repeatedly held that such an omission in the pleadings could be rectified by allowing the amendment. Reference was made to the judgment in a case where the landlord therein had lost before the Rent Controller as well as the Appellate Court but in the revision petition filed there against, the landlord therein was permitted to amend the petition by pleading the ingredients of Section 13(3)(a)(i) of the Act of 1973. In the case of **Hari Krishan** (*supra*), as is apparent from paragraph 2, the amendment was sought at the stage when the case was fixed for arguments, whereas, in the present case, it is not disputed that the evidence of the tenants is still being led. The relevant portion of the said judgment is reproduced herein below:-

“ xxx xxx xxx

2. *Learned counsel for the petitioner contends that the amendment ought not to have been allowed as it is against the admission of respondent No.1-landlord in his cross-examination and it was allowed at a belated stage **when the evidence had been closed and the case was fixed for arguments.***

xxx xxx xxx

5. *Reference can also be made to the judgment of the Coordinate Bench of this Court in the case of **Sukhwinder Singh v.***



***Darshan Lal (supra)** wherein the petitioner-landlord in the petition had not pleaded the ingredients that he was not in possession of another premises in the urban area nor he had vacated the same and he had preferred an application for amendment to plead these basic ingredients. The Rent Controller had dismissed the application by holding that it had been filed to delay the trial and it was not evident that despite due diligence the matter could not be raised earlier. **This Court had allowed the amendment by holding that such an omission in the pleadings could be rectified by allowing the amendment.** In the case of **Pawan Kumar v. Ravinder Singh (supra)**, the similar amendment where the landlord had sought to incorporate statutory compliance of the provisions of the Act inasmuch as he did not possess any such building or he had vacated the same after the commencement of the Act, had been allowed by the trial Court. The challenge thereto was negated by this Court by holding that the amendment had been rightly allowed and no prejudice would have been caused to the tenant and he would have the right to cross examine the landlord during the evidence stage. **In the case of Raman Mal v. Faquir Chand and ors (supra) the petition of the landlord for ejectment had been dismissed by the Rent Controller as well as the Appellate Court. His revision petition there against was allowed and he was allowed to amend the petition by pleading the ingredients of Section 13 (3) (a) (i) of the Act that he required the premises for his bona fide necessity and that he did not have any other premises nor he had vacated the premises after coming into force of the Act.** A similar amendment had been upheld by the Coordinate Bench of this Court in the case of **Madhi Mal v. Sat Pal (supra)**. Therefore, allowing the amendment would also be in the interest of justice and equity. The petitioner will also get adequate opportunity to rebut the case of the landlord.*

6. *Consequently, I do not find any error in the impugned order allowing the amendment whereby the respondent No.1-landlord has sought to incorporate the basic ingredients in terms of Section 13 (3)(a)(i) of the Act.”*

12. The law laid down in the above-said judgment would apply on all fours in the present case.



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13. Reference can also be made to the judgment of the Coordinate Bench of this Court in the case of **Rahul Jain (supra)**, wherein it had been observed that it is a matter of settled law that in case there was any defect in reference to the ingredients which are required to be averred to meet the requirement of Section 13(3)(a)(i) of the Act in the pleadings of the landlord, then, the same is not fatal to the petition and the same could be rectified immediately on the tenant raising such an objection.

The relevant portion of the said judgment is as under:-

“ xxx xxx xxx

18. A perusal of the averments made in the eviction petition, as noticed above, would show that the respondent-landlord has pleaded all the ingredients of his personal necessity as required; may be the language of the averments is not very specific. **It is well settled that if there is any defect in the pleadings of the landlord with regard to the ground of eviction, as raised under Section 13(3)(a)(i) of the Rent Act, the same is not fatal to the petition and the same can be rectified immediately on raising such an objection.** This view finds support from the judgment of this Court in ‘**M/s Bhatia Cloth House v. Dr. Raj Kumar Gupta and another**’ 2008(4) RCR(Civil) 250, wherein it has been held as under:

“It is consistent position in law that ambiguity in pleadings regarding the ingredients, set out in Section 13(3)(a) of the Act, if made good in the evidence, is sufficient compliance of the statutory provisions.”

In ‘**Raj Kumar v. Budha Mal**’ 2011(2) RCR (Rent) 60, it was held that:

“Having perused the judgment in *Banke Ram’s* case (*supra*), this Court is of the opinion that of course ingredients of sub-section (b) and (c) of Section 13(3)(a)(i) of the 1949 Act are to be necessarily pleaded in the eviction petition, however, as held by the Full Bench in paragraph 12 of the judgment, this Court is of the opinion that it should not be understood that under no circumstances, in the



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absence of pleadings, the evidence regarding the ingredients envisaged under sub-section (b) and (c) can be looked into. Hence, in the opinion of this Court, if parties were fully aware about the ingredients of sub-section (b) and (c) at the time of leading evidence and both the parties have led evidence on these issues, then petition cannot be thrown out merely because the landlord has failed to plead ingredients of sub-section (b) and (c) in the eviction petition.”

19. *In view thereof, the argument raised that the need of the respondent-landlord is not bonafide and is a mere wish is misconceived.”*

14. In the present case, it is not disputed that no objection with respect to the non-mentioning of the ingredients was raised in the written statement and the respondent-landlord on his own had moved an application for amendment in order to incorporate the necessary ingredients of Section 13(3)(a)(i) of the Act of 1973, which application has been rightly allowed by the Rent Controller.

15. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the impugned order does not call for any interference and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

May 12, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes