

**IN THE HIGH COURT OF P UNJAB AND HARYANA AT CHANDIGARH****344****CR-6249-2023 (O&M)****Date of Decision : 06.02.2025**

Gopi Ram

....Petitioner

VERSUS

Parveen Kumar and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Binderjit Singh, Advocate for the petitioner.

Mr. Rajan Bansal, Advocate for the respondents.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 20.09.2023 passed by the Rent Controller whereby the application filed by the tenant-petitioner for amendment of the written statement has been dismissed.

2. A few facts necessary for deciding the present revision petition may be noticed. The landlord-respondent filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the tenant-petitioner on the ground of arrears of rent and bonafide personal necessity on 27.03.2019. The written statement was filed on 26.08.2019. Present application for amendment of the written statement was filed on 18.08.2023 at the stage when the evidence of the tenant-petitioner was going on. Subsequently, the evidence of the tenant-petitioner was closed by order. In the amendment application it was stated that the tenant-petitioner wanted to add a legal objection, which reads as under :

“ 4. That the present eviction application is not maintainable as the applicant is not the absolute owner of building bearing MC No.4448 including the shop in dispute and is a co-sharer. No eviction application can be filed by a co-sharer alone.”

Further, the following para was sought to be added at the end of para 6(ix), which reads as under :

“ It is further submitted that during the pendency of the present eviction application the landlord Parveen Kumar has reconstructed one bigger shop forming part of building bearing MC No.4448 by demolishing and including the stairs which were adjoining to the above said shop and now he is running business in the above said bigger shop along with his son, which shows that the ground of personal necessity of renovating/demolishing the entire building and constructing a new building/Show Room/Hall is nothing but a mere fanciful wish of the applicant/landlord and not actual need of the applicant/landlord. It is further submitted that since the landlord has reconstructed and renovated part of building bearing MC No.4448, then it shows that the entire building is in a stable and strong condition. However, in case landlord wants to renovate the remaining portion of the building bearing MC No.4448,

then the same can be done without damaging or disturbing the demised shop. It is submitted that the applicant alone has got no right to file the present application on the ground of demolishing the entire building and reconstruct the same, as he alone is not the owner of entire building No.4448 rather he is only a co-sharer along with his son and wife."

3. Reply was filed to the said application and vide the impugned order the said application was dismissed. Aggrieved by the same, present revision petition has been filed by the tenant-petitioner.

4. Learned counsel for the tenant-petitioner would contend that during the pendency of the ejectment petition certain renovations have been made by the landlord-respondent to the area in his possession and he is carrying on business with his son in the said premises and hence the bonafide necessity of the landlord-respondent no longer exists.

5. *Per contra* learned counsel for the landlord-respondent would contend that the amendment application itself is totally bereft of any details as to when these facts came to the notice of the tenant-petitioner inasmuch as the amendment sought is that renovation had been carried out in the adjoining shop, to the shop which is in possession of the petitioner-tenant himself and that the construction, if any, was being carried out under the nose of the tenant-petitioner who has not even bothered to give a date as to when the said construction was made. It is urged that the tenant-petitioner has not even stated in the amendment application that inspite of due

diligence he could not raise the additional points before the commencement of trial. He has also submitted that the ejectment petition is at the stage of arguments.

6. Heard.

7. In the present case the amendment now sought is for adding legal objections qua maintainability of the ejectment petition on the ground that the landlord-respondent is only a co-sharer and the secondly that during pendency of the ejectment petition the respondent-landlord had reconstructed one bigger shop forming part of building bearing MC No.4448 by demolishing and including the stairs which were adjoining to the above said shop and was now running a business in the said shop and hence his ground for personal necessity did not exist any longer. The application itself is totally bereft of any details as to when it came to the knowledge of the tenant-petitioner that the landlord-respondent had carried out the renovations or reconstructed the adjoining shop. It is not in dispute that the shop, which is alleged to have been reconstructed, is adjoining to the shop already in possession of the tenant-petitioner. No date nor any details are given. A prudent person, who is litigating with the landlord, the moment the construction had commenced, would have filed the application for amendment.

8. Learned counsel for the tenant-petitioner has further stated that further evidence would be required to be led in the matter. Amendment at this stage when the case has been pending since 2019 especially in view of the fact that the tenant-petitioner did not lead his evidence which he could

have led when his evidence was going on and now states that he would require some more time to lead his evidence, would amount to a *de novo* trial. The judgments relied upon by learned counsel for the tenant-petitioner in the cases of **Babu Ram Prop. M/s B.R. Tailors & Anr. Vs. Tarninder Singh & Anr. [2022 (2) RCR (Rent) 519]**; **Sunita vs. Samay Singh Chaudhary [2022 (2) RCR (Rent) 520]** and **M/s Sunder Lal Chopra & Sons vs. Raj Rastogi & Ors. [2022 (2) RCR (Rent) 656]** would not come to the aid of the tenant-petitioner as the said decisions are based on the facts of each case. A minor difference in facts can result in to different conclusions.

9. As noticed above, in the present case the amendment application itself is totally bereft of material details and does not even mention that inspite of due diligence the tenant-petitioner could not have raised the matter before the commencement of trial. Hence, no fault can be found with the impugned order passed by the Rent Controller. Accordingly, the present revision petition is dismissed. Pending applications, if any, also stand disposed off. While parting, it may be mentioned that as per the Website of District Courts, Bhatinda, the ejectment petition filed by the landlord-respondent has been allowed today.

(ALKA SARIN)
JUDGE

06.02.2025
jk

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