

(1999) 08 P&H CK 0035

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1769 of 1999

Punjab State Co-operative Fruit
Development Corporation

APPELLANT

Vs

S. Mehtab Singh Gill, Deputy
Advocate General

RESPONDENT

Date of Decision: Aug. 4, 1999

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 6 Rule 17
- East Punjab Urban Rent Restriction Act, 1949 - Section 15(5)

Citation: (1999) 123 PLR 655 : (1999) 4 RCR(Civil) 320 : (1999) 2 RCR(Rent) 450

Hon'ble Judges: S.S. Sudhalkar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

S.S. Sudhalkar, J.

This revision petition is filed by the petitioner-tenant whose application for amendment of written statement has been rejected by the learned Rent Controller, Chandigarh. The respondent-landlord has filed a rent petition against the petitioner-tenant for possession of the rented premises on various grounds for eviction u/s 13 of the Punjab Urban Rent Restriction Act.

2. I have heard learned counsel for the parties and perused the record of the case.

3. The eviction petition has been filed on various ground viz:

(i) Arrears of rent;

(ii) Change of user; and

(iii) Personal necessity.

4. During the arguments, it has been stated by the learned counsel for the landlord and not controverted by the learned counsel for the tenant that out of the grounds for eviction, the respondent-landlord has given up the pleas of bonafide requirement and non-payment of rent. The prayer for amendment qua the ground of change of user is now required to be considered.

5. Learned counsel for the petitioner argued that the amendment in paragraph 2(b) of the petition is necessary in order to clarify the pleadings further. Learned counsel for the respondent has argued that the petitioner has filed this petition just with a view to delay the proceedings and has also argued that though the issues were framed on 6.2.88, the petitioner is trying to delay the matter. He has read out various zimni orders. It also appears from the zimni orders that the evidence of the respondent was recorded on 21.12.1998 and further adjournment was objected on the ground that no list of witnesses was furnished. However, it has been mentioned that though that was the last opportunity but in the interest of justice one more opportunity was afforded to the respondent to conclude his entire evidence on 12.1.1999. On that day, Smt. Krishan Sharma, Advocate withdrew her power of attorney in order to appear as a witness on behalf of the respondent. The same was not objected to and she was allowed to make her statement. The case was then adjourned to 23.1.1999 on which date this application for amending the written statement was filed.

6. Coming to the merit of the case, it can be found that amendment sought is for challenging the different grounds for eviction. However, because some of the grounds have been given up by the respondent-landlord, only ground regarding change of user will have to be considered. This ground is in para 2(b) of the petition. It can be reproduced as under:

"2(b) That the respondent have changed the user of the premises as the premises were let out specifically for setting up the office of Corporation, but now the Corporation is using the premises as Guest/Rent House for its men and authorities. Owing to these acts and conduct of the respondent, Chandigarh Administration can initiate proceedings under the Capital of Punjab (Development and Regulation) Act also and in that eventuality, the proprietary rights of the petitioner can be put to jeopardy." The reply, on merits, to this ground in the written statement is as under:

"(b) Denied being based on wrong facts to harass the defendant/respondent."

7. The ground which is sought to be added by the amendment is as under:

"2(b) It is further denied that the respondents have changed the user of the premises as alleged. The premises were taken for the office of the respondents and since inception of the tenancy till date the office of the respondents is functioning in the demised premises. It is specifically and emphatically denied that the premises are being used for Guest/Rest House as has been alleged. The ground of change of user has been taken with malafide just to justify the petition on false grounds."

It is, therefore, found that the allegation of the respondent-landlord in the petition is that the petitioner-tenant has changed the user of the premises which was specifically let out for office of the Corporation and it is being used as a guest/Rent house for his men and authorities. This position is denied in the original written statement. Now by the said amendment, there is nothing new shown except denying the allegations by different sentences. Though it is stated in the proposed amendment that the premises were taken for the use as office of the petitioner-Corporation since the inception of the tenancy and that till that date, the office of the petitioner is functioning in the premises. Therefore, except the denial in more words, nothing special has been pointed out in the proposed amendment. Therefore, the petitioner-tenant is not trying to make out any additional ground by the proposed amendment. No positive case is sought to be put up by the amendment. Nothing is prescribed as to in how many words and sentences an allegation is to be denied.

8. Learned counsel for the respondent has cited before me the case of [Shiromani Gurdwara Prabhandak Committee Vs. Jaswant Singh](#), . The principles of that case are not applicable to the facts and circumstances of the present case. It is held in that case that it is settled law that the defendant can raise mutually inconsistent pleadings in the written statement but it is for the Court to consider whether the case can be properly considered in deciding the issue and in that case the plea in the written statement was mutually destructive. It is further observed in that case that in the first written statement, they have denied the title of Isher Singh himself and, therefore, they could not thereafter by amendment, set up a title in them and plead gift made by Isher Singh in favour of the petitioner-committee and it is further held that the High Court had rightly refused to grant amendment.

9. Delaying the matter by mischievous means certainly can be considered. It is well settled that bonafide and non-mischievous prayer for amendment can be granted even at the appellate stage, if found proper by the Court. However, the principles regarding stage at which the amendment is sought to be made is not required to be discussed as the amendment sought for is found not necessary. To repeat it, the allegations made in para 2(b) of the petition are already denied in the written statement and further denial by more sentences will not take the case of the tenant-petitioner any further.

10. During the hearing of arguments, I put a question to learned counsel for the petitioner as to whether he would not insist on leading additional evidence in case the amendment sought for was allowed. In answer to the question, he sub-mitted that he could not make any statement. Therefore, looking from another angle, by allowing unnecessary amendment, it can open chances of further delaying the matter by leading additional evidence etc. and, therefore, the amendment which is not at all necessary, should not be allowed. In view of the above, I find that there is no reason to interfere with the order of the learned Rent Controller and this revision

petition deserves to be dismissed.

11. As a result this revision petition is dismissed.