

(2010) 09 P&H CK 0408

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 5323 of 2010

Satnam Singh

APPELLANT

Vs

Harvinder Singh

RESPONDENT

Date of Decision: Sept. 17, 2010

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 151

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

Civil Misc. No. 23208-CII of 2010

1. This is an application u/s 151 CPC for preponing the date of hearing of the revision petition viz. Civil Revision No. 5323 of 2010.

For the reasons stated in the application, the same is allowed and the hearing of the above said revision petition is preponed to today.

Civil Revision No. 5323 of 2010

2. In the present case, the petitioner/tenant has filed a written statement on 9.4.2008. On 22.5.2010, after the lapse of two years and one month, an application for amendment of the reply (Annexure P3) was filed by the petitioner wherein it was pleaded that an affidavit (Annexure P2) was executed by him on 6.12.2006. In the said affidavit, it was stated that the petitioner would pay Rs. 1,000/- per month as rent and Rs. 500/- on account of arrears of rent. This affidavit was witnessed by Ram Nath, Ex-President, Municipal Council, Dhuri and other witnesses. Apparently, nothing as such was stated in the written statement. Therefore, the application (Annexure P3) was filed on 22.5.2010 to plead the contents of the affidavit. When the

application was filed, the evidence of the parties had already been concluded and the case was fixed for documentary evidence of the respondent. The excuse pleaded for not making the averments earlier regarding the affidavit is that "the applicant/tenant failed to find out the said photostat copy of the affidavit dated 6.12.2006 from his house as he forgot the same by keeping somewhere in the house. This version is unnatural, improbable and unconvincing. A definite stand was taken by the landlord that the affidavit was a fabricated document and has been a tactic to delay the proceedings. The case is fixed tomorrow for arguments. Therefore, this Court is prima facie of the view that the amendment of the written statement has been rightly rejected by the Rent Controller.

3. Learned Counsel for the petitioner, to dislodge the observation, has placed reliance upon Baldev Singh and Ors. v. Manohar Singh and Anr. 2006 (3) CCC 573 (Supreme Court) to contend that the Court should be liberal in allowing amendment of the written statement than of plaint. To the similar effect is a judgment rendered by the Madhya Pradesh High Court in Kishori Lal v. Balkishan and Anr. 2006 (1) RCR 202, which shows that if the amendment is already taken, the Court should grant the same. Another judgment relied is Pal Singh v. Ranjit Singh 2006 (1) RCR 831 to fortify the submissions made before this Court.

4. There is no quarrel with this proposition but the conduct of the petitioner/tenant is to be seen along with the purpose for which the application (Annexure P3) for amendment of the written statement has been filed. If the same is prompted only to delay the proceedings, the Court will be hesitant to come to the rescue for the petitioner. The dismissal of the application (Annexure P3) has been rightly exercised by the Rent Controller.

5. Hence, no ground is made out to interfere in the present revision petition and the same is hereby dismissed.