



105

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CM-2578-CII-2025 in/and
CR-6901-2024 (O&M)
Date of decision: 14.02.2025

Gurcharan Singh Chadha

...Petitioner

Versus

Shri Thakurji Thakurdwara, Sunami Gate Patiala

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. K.D. Sachdeva, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

CM-2578-CII-2025

1. This is an application filed under Order 9 Rule 9 CPC for restoration of the main revision petition.

2. Learned counsel for the applicant-petitioner has submitted that he could not file an adjournment slip on account of the circumstances beyond his control and has submitted that the matter be decided on merits.

3. In view of the request made by learned counsel for the petitioner, the present application is allowed and order dated 27.01.2025 is recalled and the main case is restored to its original number and is taken up on Board today itself for final disposal.

Main case

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 19.09.2024 (Annexure P-5) whereby an application filed under Order 6 Rule 17 CPC for amendment of the written reply has been rejected.

2. Learned counsel for the petitioner has submitted that as per the



partition deed dated 29.06.2014 (Annexure P-2), the respondent herein is not entitled to receive the rent and it is Sumanjit Sharma, Murari Lal and Ramesh Kumar who are entitled to receive the rent and it is to incorporate the said plea that the application for amendment was moved which had been dismissed in an illegal manner vide the impugned order. It is however fairly submitted that since the petitioner was not in knowledge of the said partition deed dated 29.06.2014, the petitioner had been paying rent to the respondent herein.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned order has been rightly passed and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.

4. It is not in dispute that “Shri Thakurji Thakurdwara, Sunami Gate Patiala” (petitioner in the rent petition) had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, for the ejectment of the respondent (petitioner herein) from the premises in question. It was the case in the ejectment petition that the present petitioner had executed a rent note in favour of the landlord on 13.05.1981 and had not paid the rent since January, 2011 at the rate of Rs.75/- per month. Although, the original written statement has not been annexed along with the present petition but a perusal of the impugned order, would show that the present petitioner had not disputed the relationship between the landlord and tenant and had rather admitted the same and thus, assessment order for provisional rent was passed vide order dated 28.07.2013. The said facts/observations have not been disputed before this Court. Thereafter, the respondent-landlord had led his entire evidence and it is only at the stage of the tenants evidence that the application for amendment



was filed by virtue of which the admissions made in the earlier written statement were sought to be withdrawn. It was also noticed in the impugned order, which fact has also not been disputed before this Court, that the present petitioner had initiated the proceedings under Section 31 of the Punjab Indebtedness Relief Act to pay the rent to the respondent herein and thus, accepted the respondent (herein) as his landlord.

5. The present application under Order 6 Rule 17 CPC had been filed much after the commencement of the trial and in the said amendment application, it was stated that Mahant Vijay Dass had no right to institute the eviction petition in view of the partition deed dated 29.06.2014 and the amendment with respect to respondent not having the locus standi was sought to be incorporated in the amended written statement. In the reply filed to the said application, it was stated by the respondent that the said application for amendment had been filed only to delay the proceedings and that the property in question was in the ownership of the Mandir Thakur Ji Thakur Dwara and it was the said Mandir who had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act and thus, the facts sought to be incorporated in the amendment application were completely irrelevant, as it is not disputed that the ownership was of Mandir Thakur Ji Thakur Dwara. It was further stated that the present petitioner had executed the rent deed in favour of the landlord and had been paying rent for some time and later had stopped paying the rent and thus, had admitted the relationship of landlord and tenant and is now wanting to withdraw the said admission. It was further stated that there was no partition deed executed.

6. The Rent Controller, apart from noticing the fact that in the



original reply, the present petitioner had admitted the relationship of landlord and tenant, had also noticed that neither the application for amendment was supported by any affidavit nor the original of the alleged partition deed was produced before the Court and in case the said document was in possession of the present petitioner, it was not possible that he would not have taken the plea regarding the same in the original reply and would wait for the entire evidence of the respondent-landlord to be concluded. It was observed by the Court that the plea raised by the present petitioner was contradictory to the plea earlier raised by him in his original written statement and the admissions made were sought to be withdrawn which was not permissible, more so, when the respondent-landlord had already concluded his evidence. The observations made in the said order could not be shown to be perverse or illegal and thus, the impugned order deserves to be upheld.

7. It could not be disputed that in the original proceedings, the present petitioner had admitted the relationship of landlord and tenant between the parties and even the provisional assessment of rent was done on the basis of the said admission vide order dated 28.07.2013. In case the petitioner had disputed the said relationship of landlord and tenant then, as per settled law, the provisional assessment of rent would not have been required to be done. The application for amendment under Order 6 Rule 17 CPC had been filed after the entire evidence had been led by the landlord and thus, had been filed after the commencement of the trial and was hit by the proviso to Order 6 Rule 17 CPC and it could not even remotely be stated that the petitioner was diligent in moving the application for amendment.

8. Learned counsel for the petitioner has fairly submitted that the



rent was being paid to the respondent-landlord and thus, the question of the alleged partition deed becomes irrelevant as, in a case for eviction, the question which is required to be considered is as to whether the person who had filed the petition was the landlord or not. Moreover, neither the original of the said partition deed has been produced nor it has been shown as to how the said alleged deed is relevant for the adjudication of the present case. Even as per the said document, it has been stated that the land belongs to Thakur Dwara and it is the said Thakur Dwara which had filed the petition under Section 13 of the East Punjab Urban Rent Restriction Act, although the same had been filed through its Mahant (Manager).

9. Keeping in view the abovesaid facts and circumstances, the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

10. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

14.02.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No