

Punjab-Haryana High Court

Vinod Kumar vs Baldev Krishan Rakesh Kumar ... on 7 September, 2005

Equivalent citations: (2006) 142 PLR 773

Author: J Singh

Bench: J Singh

JUDGMENT Jasbir Singh, J.

1. None has appeared on behalf of the respondent.
2. Vide order under challenge (dated 20.3.2004), the Court below has allowed application of the respondent, under Order 6 Rule 17 C.P.C., for amendment of the written statement.
3. It is apparent from records that, dispute is going on between the petitioner-landlord and the "sponde", w.e.f. 1996. Six applications for ejectment including the one, in dispute, are pending before the Rent Controller and those have been ordered to be consolidated.
4. Counsel states that in heading of the application, which was moved in the year 1996, description of the property, on rent with the respondent, was given as under:-

Shop bearing No. 82, measuring 20' x 40' consisting of two rooms, verandah bounded as:-

East: Road: West: Bimal Kumar Sat Paul's shop North: shop of Sham Lal and South: road thoroughfare, situated in New Grain Market, Malerkotla
5. In subsequent ejectment applications also, description of property was given as mentioned above. Petitioner in para No. 1 of his application had stated that "description of the property has been shown in heading of the application
6. The respondent in his written statement, in this application, also in earlier applications, admitted para No. 1 as correct.
7. It appears from records that, in the present application for ejectment, the respondent moved application under Order 6 Rule 17 C.P.C. for amendment of his written statement, by stating that in fact, out of the property in dispute, one room was kept by the land-owner and he has wrongly been asked to pay rent for the same, and he, is entitled to recover/adjust excess amount of rent, paid by him to the land-owner. It has further been stated that construction in possession of the petitioner comes to 1/4th of the property in dispute. In reply to that application, it was stated by the petitioner that entire shop bearing No. 82, description of which was given in heading of ejectment application, was let out to the respondent. Out of the said property, no portion was retained by the petitioner, as stated by the respondent. That application for amendment was allowed.
8. Counsel for the petitioner states that amendment has wrongly been allowed and the respondent was allowed to withdraw admissions made by him, without any justification.

9. Argument raised seems to be justified. It is apparent from records that, in his application for amendment, respondent had not stated as to under what circumstances, he had earlier admitted dimensions of the property, allegedly let out to him. It has not been stated that, the admission regarding building in his possession, was made earlier under any misconception or the same was erroneous. It is apparent from records that, from the date of filing of first application for ejectment, in the year 1996, the petitioner-landlord had given same description of property as was given in the present ejectment application.

10. It has been stated by counsel for the petitioner that, in replies filed by the respondent in all the pending applications, description of property was admitted by him. Respondent had also paid the rent for the entire property.

11. It is an established law that admission can be withdrawn if it is proved on record that same was made under some misconception or was erroneous. No such fact is established from the record, neither it has been alleged by the respondent in his application for amendment.

12. Under the circumstances, this Court feels that, the impugned order is not justified. Accordingly, this civil revision petition is allowed and the order, under challenge, dated 20.3.2004 is set aside.

Parties are directed to appear before the Rent Controller, on 4.10.2005.