
(1990) 06 P&H CK 0058
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. (sic) 984 of 1987

Krishan Lal Mehta

APPELLANT

Vs

Shri Luxmi Dal and Oils Mills and Others

RESPONDENT

Date of Decision : 05-06-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17
East Punjab Urban Rent Restriction Act, 1949 — Section 13

Citation : (1990) 98 PLR 644

Hon'ble Judges : G.R. Majithia, J

Bench : Single Bench

Advocate : O.P. Goyal and S.S. Salar, for the Appellant; Vijay Jhanji and Ravinder Jain, for the Respondent

Final Decision : Allowed

Judgement

G.R. Majithia, J.—This revision petition is directed against the order dated August 11, 1987 passed by the Appellate Authority, Ludhiana, allowing the application under Order 6. Rule 17, CPC (for short, the Code) filed by Rakesh Kumar respondent to incorporate the plea in the written statement that the application u/s 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, the Act) filed by Krishan Lal Mehta against M/s Luxmi Dal and Oil Mills, Khanna, was bad for non-joinder of parties.

2. The facts :--

Krishna Lal Mehta, the landlord, filed an application u/s 13 of the Act against M/s Luxmi Dal and Oil Mills, Khanna through its partner Madan Lal and sub-tenants. The application was allowed on the ground that the tenant had sublet the premises to respondents 4 to 6 to the ejectment application. The sub-tenants challenged the eviction order in appeal before the learned Appellate Authority, Ludhiana During the pendency of the appeal, an application under Order 6, Rule 17 of the Code was moved by the tenant to incorporate the plea in the written statement that the application for eviction was bad for non-joinder of parties

since the partners of respondent No. 1 were not impleaded as party respondents to the eviction application. The Appellate Authority allowed the amendment. Aggrieved by this order, the landlord has up in revision in this court.

3. The learned Appellate Authority misdirected itself in allowing the amendment in the written statement at the appellate stage to incorporate the plea referred supra. The partnership firm is merely a compendious name for the partners constituting it. If the application for eviction lay against the partners and not against the partnership firm, the Appellate Authority was well within its right to decide the objections on merits, but it could not allow the amendment merely to incorporate a technical plea that the eviction application was not maintainable for not impleading the necessary parties. The partnership firm was a party respondent to the eviction application. The effect of not impleading the partners of the firm could not be examined by the Appellate Authority. The amendment in the written statement was wholly unnecessary and uncalled for at such a belated stage.

4. Consequently, the revision petition is allowed and the order under challenge is set aside. In the circumstances of the case, there will be no order as to costs. However, it is made clear that the tenants are entitled to raise legal objections as are premissible under the law. The parties through their learned counsel are directed to appear before the learned Appellate Authority, Ludhiana, on July 23, 1990, which will either dispose of the appeal itself or entrust the same to any other Appellate Authority (Additional District Judge) posted at the station.