

(2012) 03 SHI CK 0530
In the High Court Of Himachal Pradesh
Case No : Civil Revision No. 1 of 2012

M/s. Panna Lal and Sons

APPELLANT

Vs

Shri Arun Kumar, Shri Varinder Kumar, Smt. Promilla Gupta
and Smt. Renu Goel

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (2012) 03 SHI CK 0530

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Advocate : Ajay Kumar, with Mr. Dheeraj K. Vashisht, for the Appellant; Devyani Sharma, for the Respondent

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The challenge herein in this civil revision by the petitioner (tenant) is against the order dated 28.09.2011, passed by the learned Rent Controller, dismissing an application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (in short "CPC") filed by the tenant for amendment of reply to the eviction petition. Precisely the amendment sought was that as per averments setup vide para 11 of the petition the respondents (landlords) pleaded that monthly rent of the demised premises is "Rs. 150 per month (i.e. Rs. 1800/- per annum) as per the Civil Suit dated 7-5-1998, filed by the respondent against Shri Khem Chand (father of the petitioners). SJ (3) 60-1 of 98". In the corresponding reply on behalf of the tenant these averments were simply denied being "wrong". By way of the amendment tenant intended to setup an averment to the effect that "as a matter of fact the rent of the rented premises is Rs. 535/- per annum and not Rs. 150/- per month as falsely alleged". The prayer for amendment has been declined by the learned Rent Controller mainly on the ground that the same cannot be entertained as the trial has already commenced. However, admittedly, though issues have been framed in the eviction petition, yet the fact remains

that the evidence is yet to begin. In such circumstances, I am satisfied that in case the tenant is permitted to amend the reply to the eviction petition, the landlords shall get a fair opportunity to rebut the same by filing rejoinder thereto and further reiterating their stand in the evidence to be led by them in the eviction petition and as such no prejudice is going to be caused to them and they can be suitably compensated by way of costs.

2. In view of the above, the petition is allowed and the impugned order dated 23.09.2011 reversed. Consequently, the tenant is permitted to amend the reply to the eviction petition subject to costs of Rs. 2500/- to be tendered in the learned court below.

3. While parting, I may observe that the eviction petition was filed on 07.12.2006 and a period of more than five years has already elapsed and the parties are still at the stage of pleadings and yet to enter upon evidence. In such circumstances, the learned Rent Controller shall make every endeavour to try and dispose of the petition as expeditiously as possible. The petition, so also pending CMP (s), if any, stand disposed of in the above terms.