IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1690 of 2015 (O&M)
Date of decision : March 24, 2015

Vijay Kumar Aggarwal

..... Petitioner

Versus

Smt. Inderjit Kaur

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

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1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

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Present : Mr. Sharan Sethi, Advocate,
for the petitioner.

Mr. Sanjeev Sharma, Advocate,
for the respondent.

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GURMIT RAM, J.

1. This revision petition is filed by the petitioner (tenant) against the order dated 18.02.2015 passed by the learned Rent Controller, Chandigarh in Rent Petition No.1932 of 2015.09.2011 vide which his application under Section 151 CPC for recalling witness-Gunraj Singh Gill for his further cross-examination has been declined.

2. Facts in brief as mentioned in the application are that, the respondent (landlord) has filed an ejectment petition seeking ejectment of

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the petitioner (tenant) from the demised premises on the ground of personal requirement of her son Gunraj Singh Gill.

Recently the petitioner (tenant) has come to know that abovesaid Gunraj Singh Gill is carrying on the business in four firms as detalied below:-

i. M/s Onkar Power Engineers, 10-A, Link Road, Atam Nagar, Ludhiana.

ii. M/s Onkar Diesel, G.T. Road, Miller Ganj, Ludhiana.

iii. M/s Gee Gee Motors, 10-A, Link Road, Atam Nagar, Ludhiana.

iv. M/s Onkar Power Engineers Gee Gee Motor 10-A, Link Road, AC Market, Ludhiana.

He is the owner of abovesaid four firms and as such, prayer is made to further cross-examine him by filing the instant application under Section 151 CPC before the learned Rent Controller. Reply of respondent (landlord) was obtained. After hearing learned counsel for both the parties and going through the record as well, learned Rent Controller dismissed this application vide the impugned order.

3. Being dissatisfied with this order, the petitioner (tenant) has come up in the instant revision petition.

4. I have heard learned counsel for both the parties and also perused the record as well.

5. Learned counsel for the petitioner has contended that the documents which the petitioner wants to put to PW-2 Gunraj Singh Gill in

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his further cross-examination are very essential to adjudicate the matter in issue. The learned trial Court has wrongly declined his application vide the impugned order, which has caused a serious prejudice to the petitioner as well as miscarriage of justice.

6. In the application, it is not specifically mentioned as to when the documents which the petitioner (tenant) wants to put to PW-2 Gunraj Singh Gill in his further cross-examination had come to his knowledge/possession. The copies of these documents which are placed on record are undated except photocopy of one income tax return pertaining to year 2013-14. Then it is admitted case of both the parties that evidence of both the parties before the learned Rent Controller has been closed and the case is fixed for arguments. Then it is also contention of learned counsel for the respondent (landlord) that PW-2 Gunraj Singh Gill was cross-examined at length, when he appeared before the learned Rent Controller. Even no document in the shape of partnership deed/registration certificate etc. has been brought on the file to show that PW-2 Gunraj Singh Gill is the proprietor of the firms running under the name and style of M/s Onkar Power Engineers, M/s Onkar Diesel, M/s Gee Gee Motors and M/s Onkar Power Engineers Gee Gee Motor.

7. Learned counsel for the petitioner contended that under the provision of order 18 Rule 17, CPC, a witness can be recalled for his further statement, if any material document has been recovered/discovered subsequently. Herein he has relied upon the case law as laid down in ***Sahanaz Akhte vs. Sk.Asfar Ali Hossain 2010(3) ICC 553.*** In this case, the

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petitioner intended to recall his witness for the purpose of proving the rent receipt referred to in his supplementary affidavit. But in the case in hand, the present petitioner does not want to recall his own witness to prove any fact/document. Rather, he is intending to recall PW-2 to put certain documents to him in his cross-examination. Then he has also relied upon another authority as laid down by this Court titled as ***Paramjit vs. Prem Pal alias Mehar Pal and others, 2014(1) R.C.R. (Civil) 98***, which is also under Order 18 Rule 17, CPC. It has been laid down in it that provision of order 18 Rule 17 CPC is enabling provision under which the Court is entitled to recall any witness in any appropriate case for the clarification of any factual position, which is essential. So this authority also does not serve any purpose of present petitioner (tenant).

8. On the other hand, learned counsel for the respondent (landlord) also contended that provision under Order 18 Rule 17, CPC, is the enabling provision for the convenience of the Court and not for the purpose to re-examine any witness to fill the lacunae in the case. In this regard he has also relied upon case law of this Court titled as S***urinder Kaur vs. Karanbir Singh, 2004(3) R.C.R. (Civil)161***. Then he has also cited another authority of this Court as laid down in ***Binder Singh vs. Babu Ram, 2007(3) R.C.R. (Civil) 495***, wherein it has been laid down in brief that if any point has not been put to the witness in the cross-examination, then it cannot be made the basis for recalling the witness for further cross-examination.

9. In the light of above discussion there is nothing wrong in the

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impugned order. Hence this revision petition being meritless stands dismissed and disposed of accordingly.

10. Nothing observed herein will have any effect of any kind on the ejectment proceedings stating to be pending before the learned Rent Controller.

(GURMIT RAM)
JUDGE

March 24, 2015
Gaurav Sorot

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