

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2686 of 2015

Date of decision: April 30, 2015

Sudhir Talwar and another

...Petitioners

Versus

Raghubir Dass and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.R.Gupta, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners Sudhir Talwar and Smt.Satya Talwar have filed this revision petition against Raghubir Dass respondent and Ram Piari, Rakesh Kumar, Bhagwati Devi, Jugal Kishore, Sakuntla Devi and Ashwani Kumar proforma respondents under Article 227 of the Constitution of India for setting aside the impugned order dated 03.04.2015 passed by learned Rent Controller, Chandigarh, dismissing the application for additional evidence, with a further prayer to allow the said application for additional evidence.

The brief facts of the case are that present petitioners (respondents No.1 and 2 in rent petition) filed application to produce additional evidence on the basis of oral settlement took place between the parties during the pendency of the rent petition by which Raghubir Dass along with Rakesh Kumar and Jugal Kishore, agreed to increase

the rent from ₹2000/- to ₹4000/- per month and it was further decided that all the cases would be withdrawn. It is further stated that in compliance of above settlement, respondents No.1 and 2 (present petitioners) and respondents No.3, 4 and 6 (in rent petition) will send advance rent of six months @ ₹4000/- per month to the petitioner Raghubir Dass (present respondent No.1) through demand draft by registered post drawn on Union Bank of India. The applicants have also brought on record the pay orders and the postal receipts.

As regarding delay in filing the application for additional evidence before Rent Controller, it is stated in the application that present counsel was engaged on 01.09.2014, who came to know about this fact and immediately filed the application, so there is no delay.

Upon notice, present respondent No.1 (petitioner in rent petition) filed reply stating therein that the application has been filed just to delay the proceedings of the case and the story put forward is concocted one. It is also stated in the reply that statement of respondent (present petitioner No.1) was recorded in the Court and at that point of time, he never raised the factum of the compromise that was arrived between the parties on 03.01.2014. It is further stated that the story is introduced just to delay the case. The oral settlement has also been denied.

Learned Rent Controller, Chandigarh, after appreciating the evidence, dismissed the application vide impugned order dated 03.04.2015.

Aggrieved from the above impugned order, present revision petition has been filed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that learned Rent Controller, Chandigarh in the order dated 03.04.2015 has observed that rent petition has been filed on 10.03.2010 i.e. about 5 years ago and it contains the grounds of material alterations, change of user and personal necessity. The issues were framed on 30.11.2010 and thereafter, the petitioner closed his evidence on 12.05.2012. Since then, the case was fixed for evidence of the respondent, which was closed on 13.11.2014. It is further observed that respondent Sudhir Talwar's (present petitioner No.1) cross-examination was concluded on 01.08.2014 and settlement is alleged to have taken place on 01.03.2014 i.e. during the continuance of respondent's evidence but neither any such statement has been made nor the oral settlement has been brought to the notice of the Rent Controller. It is further held that it cannot be believed by any stretch of reason that the respondent has not disclosed this material point to his counsel, which creates strong doubt regarding the entire version as well as regarding the intention of the respondents, which prima facie appears to be to delay the proceedings of this case.

The perusal of the orders shows that this order is as per law. Learned Rent Controller, Chandigarh, while passing this order, has not committed any illegality. First of all, the present revision

petitioner No.1, in the application is alleging oral statement but nothing has been shown as to why this fact was not deposed by him when his statement was concluded after more than 5 months of this oral settlement. Secondly, no attempt was made at that time by present petitioner No.1 to file the application before conclusion his statement to prove this fact in his evidence. Furthermore, if the oral settlement has taken place during the pendency of the proceedings, there is nothing to show as to why it has not been brought to the notice of the Rent Controller. Otherwise also, there is nothing in the application as to what specific evidence present petitioners want to lead. Neither any specific document nor name of specific witnesses have been mentioned, to whom the applicants-petitioners want to examine to prove the oral settlement.

The mere fact that some payment was made by the respondents (present petitioners and other proforma respondents) will itself not prove the terms and conditions of the oral settlement, if any.

From the record, I agree with the reasoning given by the learned Rent Controller, Chandigarh that this application has been filed just to delay the proceedings pending before the Court, which are five year old and the proceedings are on the grounds of material alterations, change of user and personal necessity.

From the above discussion, I find that the order passed by learned Rent Controller, Chandigarh is correct, as per law and do not require any interference from this Court. The evidence which the present petitioners now want to lead as additional evidence, was in

the knowledge of petitioner No.1 when he came to witness box to give his evidence.

Therefore, finding no merit in the present revision petition, the same is dismissed.

April 30, 2015
Vgulati

(INDERJIT SINGH)
JUDGE