

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.4888 of 2015

Date of decision : August 05, 2015

Fakir Chand Gupta

..... Petitioner

Versus

Ashok Kumar Gupta

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

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

Present : Mr. Narender Kaajla, Advocate
for the petitioner.

GURMIT RAM, J.

1. This revision petition is preferred by the petitioner herein (tenant) against the order dated 16.07.2015 passed by the learned Rent Controller, Hisar vide which his application for recalling PW-1 Ashok Kumar for his further cross-examination has been declined.

2. Facts in brief as mentioned in this revision petition are that the eviction petition filed by the respondent herein (landlord) for the ejectment of the petitioner herein (tenant) from the demised premises (ground floor of the residential house) is pending before learned Rent Controller, Hisar. Cross-examination of PW-1 Ashok Kumar was recorded on 26.02.2015.

Thereafter the instant application for recalling him for his further cross-examination was filed by petitioner herein (tenant) which was declined by the learned Rent Controller vide impugned order which resulted into filing of instant revision petition.

3. I have heard learned counsel for the petitioner and also perused the record with his able assistance.

4. Learned counsel for the petitioner herein (tenant) has contended that tenant had engaged a new counsel on 25.02.2015 on which date PW-1 Ashok Kumar was present for his cross-examination and the matter was adjourned for 26.02.2015 for his cross-examination on the request of his counsel. On the said date, cross-examination of said PW-1/Ashok Kumar was recorded. Now his contention is that due to change of his counsel, his new counsel could not cross-examine PW-1/Ashok Kumar effectively and properly and hence the request was made vide this application for recalling him for his further cross-examination.

5. As recorded in the impugned order petitioner PW-1/Ashok Kumar appeared for his statement before learned Rent Controller on 23.01.2015 and his cross-examination was deferred on the request of learned counsel for the respondent (tenant). Then on 25.02.2015, new counsel appeared on behalf of the respondent (tenant) and requested for an adjournment on the plea that he had been engaged in this case on that date itself and on his request, the matter was adjourned to 26.02.2015 for the cross-examination of PW-1/Ashok Kumar and on the said date, he was cross-examined. The change of counsel/new counsel is no ground to recall any witness for his further cross-examination. Then it is also found recorded in the instant application that the respondent (tenant) is not having

any knowledge about the properties purchased by the landlord nor it is possible to enquire about his properties. When the respondent (tenant) himself does not know about the properties of the landlord, then his request for recalling him for further cross-examination would be utterly meaningless, since he would be unable to put any suggestion to him regarding properties alleged to be owned by him other than demised premises. Even if he comes to know during the pendency of the ejectment proceedings that landlord has properties other than demised premises, then he can prove the same by leading his evidence to that effect. So this revision petition is held to be utterly merit-less and as such, it stands dismissed and disposed of accordingly.

August 05, 2015
Gaurav Sorot

(GURMIT RAM)
JUDGE