

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5903 of 2015(O&M)
Date of decision: 27.11.2015

Parveen Saini

... Petitioner

Versus

Kulwant Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Veneet Sharma, Advocate for the petitioner.
Mr. BD Sharma, Advocate for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order being assailed dated 20.08.2015, rendered by Rent Controller, Amritsar, the court had assessed the provisional rent.

Learned counsel for the petitioner has drawn the attention of the court to an order dated 12.05.2015, vide which the matter was adjourned to 20.05.2015 for arguments on an application under Order 39 Rules 1 & 2 of the Code of Civil Procedure, though no such application was moved by the landlord-respondent, as there could never be any such occasion in an eviction petition. Even on the adjourned date, the matter was further adjourned to 07.07.2015, then to 16.07.2015, then to 29.07.2015, and then to 05.08.2015, for

consideration of stay application. The daily cause list dated 05.08.2015 (Annexure P9) reveals that the matter was again adjourned to 29.08.2015. However, the order assessing the provisional rent, was passed much before i.e. on 20.08.2015. It is contended that in fact the presence of the tenant himself has been recorded in the order as counsel for the tenant. Whereas, the petitioner had engaged Sh. Kuldipak Mehta, Advocate, whose power of attorney is part of the record. Not just this, he submits that even the landlord-respondent was not being represented by Sh. A.S. Bhatia, Advocate, whose presence is also recorded in the order under challenge. So much so, as the liberty was granted to the petitioner to serve the respondent through her counsel before the Rent Controller, pursuant to notice issued by this court, the report submitted by the Process Server reveals that Sh. A.S. Bhatia, Advocate, refused to accept service as he was not the counsel for the landlord-respondent even at the time of assessment of provisional rent. In a nutshell, what is sought to be contended is that the petitioner has not been heard before passing the order under challenge, and counsel for the petitioner, before the Rent Controller, could file his personal affidavit in this regard.

Learned counsel for the respondent has not controverted the position, as sketched out above, and concedes that the landlord-respondent was not represented by

Sh. A.S. Bhatia, Advocate, at the time of assessment of provisional rent. That being so, learned counsel for the parties submit that let the order dated 20.08.2015 be set aside and the matter be remitted to the Rent Controller to re-assess the provisional rent, after affording due and adequate opportunities to the parties.

Accordingly, the order dated 20.08.2015 is set aside and the matter is remitted to the Rent Controller, Amritsar, to re-assess the provisional rent, strictly in accordance with law, after affording due and adequate opportunities to the parties to the lis.

Civil revision is disposed of in the above terms.

November 27, 2015
Rajan

(Arun Palli)
Judge