

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

(207)

CR No.7869 of 2014 (O&M)

Decided on: May 6, 2015.

Rajnish Chauhan

.... Petitioner

Versus

Suneet Tayal

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. G.S. Sirphikhi, Advocate,
for the petitioner.

Mr. Vikas Bahl, Sr. Advocate, with
Mr. Parminder Singh, Advocate,
for the respondent.

M.M.S. BEDI, J (ORAL)

After hearing learned counsel for the parties and going through the records, it appears that on account of inadvertent mistake of the parties as well as of the Rent Controller, an unsigned affidavit of respondent was permitted to be taken on record as examination-in-chief under Order 18 Rule 4 CPC. This mistake transpired after cross-examination had been conducted.

Vide impugned order the respondent has been permitted to furnish fresh affidavit, which has been termed as “additional affidavit”.

Perusal of the impugned order indicates that the case has now been fixed for cross-examination of the witness, who had placed on record the affidavit Ex. PA on 11.11.2014.

After considering all the facts and circumstances of the case, this Court is of the opinion that no illegality or irregularity has been

committed by the Rent Controller in permitting the parties to rectify a mistake which inadvertently escaped notice of the parties as well as the Court. A bona fide error can always be rectified in the interest of justice. The Rent Controller has fixed the case for cross-examination of the witness again after placing on record the attested affidavit, pursuant to the permission. There is no technical defect in the order. The cross-examination earlier conducted will not be part of the evidence as the basis of cross-examination i.e. the examination-in-chief was not permissible under law.

I do not find any illegality in the impugned order. This petition is dismissed. The first cross-examination will be deemed to have been deleted from the record.

Counsel for the petitioner has submitted that his right of cross-examination will be prejudiced. It will be open to the petitioner to take advantage of the improvement, if any, by the witness at the time of final adjudication of the rent petition.

(M.M.S. BEDI)
JUDGE

May 6, 2015
harsha