

114

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

C.R. No.1700 of 2016

Date of Decision : 04.03.2016

Parveen Kumar

..... Petitioner

Versus

Sarita Rani

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. B.D. Sharma, Advocate
for the petitioner.

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?

AJAY TEWARI, J. (Oral)

This revision has been filed against the order dated 23.02.2016 passed by the Rent Controller declining permission to the petitioner to lead additional evidence.

The respondent-landlord had filed a petition for eviction of the petitioner-tenant on the ground that she required the shop in dispute for her bonafide necessity to start a boutique since her husband had deserted her and she had to bring up three children and she was working in a private job which was not giving her enough to keep her body and soul together. In reply, the petitioner denied the assertion that husband of the respondent had deserted her. After her evidence was closed, the petitioner moved the

instant application stating that recently he had come to know that the ration card of the respondent reflected the name of her husband and he wanted to place this on record to controvert the allegation that the husband of the respondent had deserted her. The Rent Controller held that this application having been filed late (after the closure of the evidence) the same could not be allowed.

Learned counsel for the petitioner has argued that the eviction petition was filed in the year 2014, the issues were framed in February, 2015 and the respondent concluded her evidence in September, 2015 and within 4 or 5 months the petitioner also concluded his evidence i.e. on 10.02.2016 and moved the instant application on 20.02.2016. As per the learned counsel, the dispatch with which the petitioner had led his evidence and moved the instant application shows that there is no delay and therefore the finding of the Rent Controller is wrong. He has further argued that the present evidence would go to the root of the matter.

In my opinion, the application cannot be allowed. In the first place, it cannot be lost sight of that Order 18 Rule 17-A CPC has been deleted from the statute book. No doubt a residual power exist in every Court to admit evidence which it feels necessary for deciding the case but it cannot be stated that with the deletion of Order 18 Rule 17-A CPC the requirement of due diligence no more applies. Right from the original written statement it was the stand of the petitioner that the respondent's husband had not deserted her. In the circumstances, the averment that *'recently the petitioner has come to know'* is neither here nor there and neither it had been disclosed in the application that when the petitioner

came to know and how he came to know. The mere fact that many years ago the respondent and her husband had been issued a joint ration card is no proof of the fact that they were residing together on the date of the application. The Rent Controller has noticed that all the witnesses which were reproduced by the respondent were cross-examined by the petitioner and the petitioner also led his own evidence. In the entirety of things, the dismissal of application at the stage of final arguments cannot be stated to be illegal.

Consequently, the petition is dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

March 04, 2016
ashish

(AJAY TEWARI)
JUDGE