

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

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Civil Revision No.3536 of 2016 (O&M)

Date of Decision: May 20, 2016

M/s Aggarwal Chemicals Industries

...Petitioner

Versus

Darshan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.S. Bains, Advocate
for the applicant-petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.10778-CII of 2016

Prayer in this application is for dispensing with the filing of certified copies of Annexure P-1 to P-9 and permission to place on record the photocopies of Annexure P-1 to P-9.

Application is allowed.

Filing of certified copies of Annexure P-1 to P-9 is dispensed with subject to just exceptions and the photocopies of the same are taken on record.

CR No.3536 of 2016

An order dated 23.01.2015 (Annexure P-3) was passed by the Appellate Authority, Chandigarh, under the East Punjab Urban Rent Restriction Act, 1949, on the basis of a settlement arrived at between the petitioner-tenant and the respondent-landlord, according to which the rent was enhanced from ₹4,870/- to ₹25,000/- per month w.e.f. 01.01.2015 and 31.07.2016 was the date fixed for handing over the vacant possession of the demised premises. Statements of the parties had also been recorded on 23.01.2015 in Court. An application was moved by the petitioner under

Section 151 CPC praying for grant of permission to withdraw the statement dated 23.01.2015 as recorded, where the compromise was recorded and for recall of the order dated 23.01.2015 on the basis that the counsel, who had appeared for the petitioner, had misled him into giving a statement which actually was not meant to be given, rather the statement to be given was for enhancement of rent only and not for handing over the vacant possession of the premises. This application has been dismissed vide order dated 08.04.2016 (Annexure P-8) by the Appellate Authority, Chandigarh. Both the orders dated 23.01.2015 and 08.04.2016 passed by the Appellate Authority have been challenged in this revision petition.

2. It is the contention of learned counsel for the petitioner that after the eviction petition was allowed by the Rent Controller, Chandigarh, on 14.09.2014, the petitioner has preferred an appeal before the Appellate Authority, Chandigarh. During the pendency of the said appeal, petitioner was indicated by the counsel that in case the rent is increased, he would be allowed to continue in possession of the demised premises and on that basis, he had agreed for the enhancement of rent and intended to give a statement to this effect before the Court. However, in the undertaking which was got recorded by his counsel, he also got mentioned that the petitioner would vacate the premises on or before 31.07.2016. This was never his intention nor had he agreed for the same and, therefore, the said statement, as has been recorded, was at the behest of the counsel for the petitioner without his consent. Even a complaint has been filed against that counsel with the Bar Council of Punjab and Haryana on 06.11.2015 which is still pending.

3. Petitioner when came to know as to what has been recorded in the Court as his statement on the basis of a compromise, he moved an application on 13.11.2015 for withdrawal of the statement dated 23.01.2015 as recorded and for recall of the order dated 23.01.2015 which application should have been allowed by the Appellate Authority keeping in view the facts and circumstances of the present case, especially when action has been initiated against the then counsel, who had misled the petitioner to give a statement and has not stated the correct facts to him. He contends that for the acts and omissions on the part of the counsel, the petitioner should not be penalised and since the statement was not given *bonafidely* but under coercion and on misrepresentation of the counsel, who had misguided him, the same should have been permitted to be withdrawn. He, thus, prays that the impugned orders be set aside and the appeal restored to its original number for decision on merits by the Appellate Authority.

4. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned orders but do not find myself in a position to accept the same.

5. It is not in dispute that the petitioner had appeared in person along with counsel on 23.01.2015 in Court when the statement of the petitioner and the respondent, who was also present, was recorded. The undertaking was also recorded in the presence of the petitioner and the respondent as also their counsel, who had appeared along with them. As per the order, both the parties had agreed to the settlement and on that basis, the petitioner had made a statement for withdrawing the appeal. In the light of the settlement, the rent was enhanced w.e.f. 01.01.2015 and arrears upto that date was to be paid at the old rate of rent within 15 days and the petitioner

had undertaken to vacate the premises on or before 31.07.2016 and accordingly the appeal was ordered to be dismissed as withdrawn. This order was passed on 23.01.2015.

6. The complaint which is stated to have been filed against the counsel is dated 06.11.2015 and the application for withdrawal of the statement dated 23.01.2015 and the order of the same date, was filed on 13.11.2015. It appears that the petitioner was satisfied with the said order dated 23.01.2015 and it is thereafter on an afterthought that the present application has been filed for withdrawal of the statement as recorded in the order dated 23.01.2015. Had the assertion, as has been made for withdrawal of the statement given before the Court and as recorded on 23.01.2015 that the counsel had misled him been correct, he would have immediately moved an application for withdrawal of the said statement but he preferred to wait till 13.11.2015. This itself shows that the petitioner has changed his mind as the date for vacating the premises was coming near. There is an inordinate delay of almost 10 months from the date of passing of the order dated 23.01.2015 till the date of filing of an application for withdrawal of the statement given by him i.e. 13.11.2015. This delay itself speaks for the facts and need not be elaborated any further. An undertaking once given and that too in the form of a statement before the Court, cannot be permitted to be withdrawn or assailed at a belated stage.

7. This Court is sanguine that the statement, as has been recorded by the Court on 23.01.2015, was given by the petitioner of his own sweet will without any coercion, undue influence or misrepresentation on the part of the counsel, especially when he was present in Court at the time when the statements were recorded and the order was passed. It may be added here

that the petitioner is an educated person and, therefore, would understand the pros and cons of the statement given in the Court, especially when the petitioner is asserting that he is running an industry in the demised premises.

8. The order impugned, being in accordance with law, do not call for any interference by this Court.

9. The revision petition, being devoid of merits, stands dismissed.

May 20, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE