

Civil Revision No.5495 of 2013

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

Civil Revision No.5495 of 2013
Date of decision: 14.01.2016

Rakesh

....Petitioner

Versus

M/s Kirpa Ram and sons and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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 ?

Present: - Mr. Sanjay Mittal, Advocate, for the petitioner.
Ms. Alka Sarin, Advocate, for respondent No.1.

PARAMJEET SINGH DHALIWAL, J.

The instant revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 07.08.2013 passed by learned Civil Judge (Junior Division), Rewari, whereby application moved by respondent No.1 for leading additional evidence, has been allowed.

Brief facts of the case are that Kishan Chand, father of the petitioner, was a tenant in the building in question since 1936. Respondent No.1 filed ejectment petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 'the Rent Act') against Kishan Chand on the ground that

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building in dispute is unfit and unsafe and it outlived its life. The age of the building was pleaded to be 200 years old. Father of the petitioner contested the ejectment petition and it was denied that the building was 200 years old. After closing of evidence by both the parties, respondent No.1 filed an application for leading additional evidence in order to prove the age of the building, which has been allowed vide impugned order. Hence, this revision petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that learned trial Court erred in law in allowing the application moved by respondent No.1. The application was moved at a belated stage. Respondent No.1 was very much in knowledge of the documents sought to be produced by way of additional evidence. Moreover, the documents sought to be produced by way of additional evidence are not admissible in evidence.

On the other hand, learned counsel for respondent No.1 vehemently contended that trial Court has rightly allowed the application for leading additional evidence. Respondent No.1 came to know about the contents and relevancy of the documents sought to be produced by way of additional evidence recently when he got translated these Urdu documents. These documents are necessary for just decision of the case. In support of her contentions, learned counsel for respondent No.1 relied

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upon the judgments of this Court in ***Shahabad Coop. Sugar Mills v. M/s Markanda Sugar Traders and another, 2012(4) R.C.R.(Civil) 620*** and ***Sham Lal v. Raj Kumar, 2013(1) Law Herald 367.***

I have considered the contentions raised by learned counsel for the parties.

Respondent No.1 has filed the ejectment petition on the ground that the building in dispute is 200 years old, therefore, unsafe for human living. However, respondent No.1 disputed the age of building and claimed it to be 50 years old. Therefore, the onus to prove the age of the building is on respondent No.1. Learned Civil Judge (Junior Division), Rewari, has passed a detailed order recording a categorical finding that all the documents i.e. rent notes dated 13.10.1936 and 04.01.1949, certified copy of death certificate of Dharamal who died in the property in dispute on 24.08.1958, sale deed of 1936 and sale deed dated 16.11.1967 regarding suit property, sought to be produced by way of additional evidence are in Urdu and respondent No.1 is not conversant with the Urdu language. Therefore, he was unable to trace out and produce the documents earlier at the time of leading his evidence and the documents are necessary for just decision of the controversy between the parties. The documents sought to be produced by way of additional evidence are more than 30 years old. As per Section 90 of the Indian Evidence Act when the document sought to be produced is proved to be more than 30 years old and in proper custody, the Court shall presume it

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to be valid document and such document is admissible in evidence.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.

(Paramjeet Singh Dhaliwal)
Judge

January 14, 2016
R.S.