

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7175 of 2013 (O&M)

Date of Decision: 09.02.2016

Urvinder Kaur

... Petitioner(s)

Versus

Brij Bhushan

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Nakul Sharma, Advocate
for the petitioner(s).

Mr. Parveen K. Kataria, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 5.9.2013, passed by learned Civil Judge (Senior Division), Amritsar, whereby application filed by the petitioner under Order 21 Rule 32 CPC read with Section 151 CPC was declined.

Relevant facts of the case that plaintiff had filed civil suit titled "Urvinder Kaur v. Brij Bhushan" for permanent injunction and the same was decided in favour of present petitioner on 3.1.2000 on the

basis of statement made by counsel for the respondent. Thereafter, respondent refused to obey the statement made by his counsel and the petitioner was constrained to file application under Order 21 Rule 32 CPC read with Section 151 CPC. Respondent was summoned by the Court to answer the claim of the applicant. At that stage, respondent made another statement on 23.8.2003 before the Lok Adalat that respondent would pay monthly rent of ₹ 600/- subject to raising of floor to the level of adjoining shop and the level would be 6 inches more than the foot path, the shutter of the shop would also be raised to the level of the adjoining shops and the expenditure to be borne by the landlord. Respondent had undertaken to pay arrears of rent within a period of one week from 23.8.2003. On the basis of said statement, petitioner had withdrawn the earlier application under Order 21 Rule 32 CPC and the Court passed the order that both the parties shall bind upon their statements.

As per petitioner, on the basis of said statements, she had made all the arrangements for carrying out the repair but the respondent refused to allow her to do so. Petitioner also made an offer for carrying out construction work at her own expenses but to no effect. Thereafter, another application under Order 21 Rule 32 CPC was filed. More so, on being given notice, respondent contested the application *inter-alia* taking the plea that he agreed to enhance the rate of rent on the condition that certain repairs and improvements were to be made at the expenses of the landlord and the Court below, after framing issues and appreciating the entire controversy, dismissed the

application that petitioner failed to prove that respondent willfully refused to comply with the directions dated 23.8.2003.

Learned counsel for the petitioner further submitted that despite having made statement before the Court by learned counsel for the respondent and subsequently by the respondent himself and the order having been passed by the Court, respondent failed to carry out his legal obligation. But the Court below wrongly dismissed the application and the said order be set aside and application be accepted.

Learned counsel for the respondent submitted that petitioner was required to carry out the repairs as agreed and as per statement made before the Court, but the said repairs were not carried out and as such there is no question of any liability to make payment of enhanced rent or arrears thereto and the Court below rightly dismissed the application and present petition be dismissed.

Having considered the submissions made by learned counsel for the parties and appreciated relevant facts of the case, this Court is of the considered view that matter in controversy is very short and simple that earlier, respondent made statement that in case landlord raises the level of the roof and shutter, the tenant would be liable to pay rent at the rate of ₹ 600/- per month. The statement made by respondent-Brij Bhushan on 23.8.2003 reads as under:-

"I undertake to pay ₹ 600/- p.m. to the landlord subject to raising of the floor to the level of adjoining shop but its level should be six inches more than the footpath, accordingly, the shutter of the shop be also

raised to the level of the adjoining shops. Shutter of the shop in question will be as per adjoining shop. The expenditure would be borne by the landlord. The rate of rent will commence from 1.9.2003. The arrears of rent will be cleared within a week. There will be no gap between the shutter with demised shop and that of the adjoining shop."

Admittedly, the said improvements/repairs have not been carried out by now. So, there was no question of payment of enhanced rent. The reasons for non-construction/improvements may be more than one because both the parties are attributing non-compliance to each other.

Respondent, in the reply, took the view that he is still ready to enhance the rate of rent in case the conditions imposed by the Court on 23.8.2003 on the basis of statement of the parties are complied with. As per respondent, applicant has not complied with her part of the statement and as such she is not entitled to the relief sought for. The Court below has rightly dismissed the application under Order 21 Rule 32 CPC. Present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

February 9, 2016

"DK"