

CR No. 7777 of 2016 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR No. 7777 of 2016 (O&M)

Date of Decision: November 18, 2016

Som Nath

...Petitioner

Versus

Santosh Rani

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anureet S. Sidhu, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.23388-CII of 2016

Application is allowed, as prayed for.

Annexures P-1, P-2, P-4 and P-5 are taken on record, subject to
all just exceptions.

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Petitioner has approached this Court impugning the order dated 19.09.2016 (Annexure P-6) passed by the Rent Controller, Patiala, whereby, the application under Order 18 Rule 17 of the Code of Civil Procedure (hereinafter referred to as 'CPC') read with Section 151 of CPC for recalling the witness PW-1 Smt. Santosh Rani and Bhagwan Singh for their cross-examination, has been dismissed.

Counsel for the petitioner contends that the application under
Order 18 Rule 17 read with Section 151 of CPC was moved with a plea that

the counsel has been changed and a new counsel has been engaged as the earlier counsel has not conducted the case properly and could not intimate the petitioner about the stage of the case because there was an error in the contact number which was with his earlier counsel. This contention of the learned counsel for the petitioner has not been accepted by the Court below on the basis of the record of the Rent Controller, according to which, the petitioner had been granted various opportunities to cross-examine PW-1 Smt. Santosh Rani, qua whom the present petition is being sought to be pressed into service by the counsel for the petitioner herein.

As is apparent from the impugned order, affidavit dated 21.10.2015 was filed by PW-1 Smt. Santosh Rani. Copy of the said affidavit was supplied to the counsel for the petitioner. At the request of the counsel for the petitioner, cross-examination was deferred to 04.01.2016. On the said date, the witness was present but on the request of the counsel for the respondent herein, case was deferred for 05.03.2016. Thereafter, the case taken up for hearing on 04.05.2016 when again Smt. Santosh Rani was present in Court but the counsel failed to cross-examine the witness. Under these circumstances, the Court proceeded to record the cross-examination of the said witness as 'nil' and the case was fixed for 17.05.2016 for the evidence of the petitioner. The evidence was closed on the said date at the statement of the counsel for the respondent on 01.07.2016. Thereafter, four opportunities including last opportunity, have been granted to conclude the evidence of the petitioner but he has failed to lead any evidence. It is, at this stage that the present application under Order 18 Rule 17 read with Section

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151 of CPC for recall of the witness PW-1 Smt. Santosh Rani and Bhagwan Singh, has been filed. The Court while passing the order dated 19.09.2016 has properly appreciated the facts and the opportunities which have been given to and availed of by the petitioner either to cross-examine the witnesses of the respondent or to lead his own evidence but he has failed to do so.

The plea with regard to the counsel having not informed the petitioner cannot be accepted as it is apparent that the petitioner also has not been vigilant enough and diligent to pursue his case after having engaged a counsel as there is nothing on record to indicate that he had ever enquired from his counsel about the fate of his case.

Finding no merit in the present revision petition, the same stands dismissed.

November 18, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No