

CR No.8380 of 2016 (O&M)

Date of Decision: December 13, 2016

Shukla Kohli

.....Petitioner

Versus

M/s Neelam Traders

....Respondent

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIHPresent: Mr. Namit Gautam, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 03.11.2016 passed by the Rent Controller, Ludhiana, whereby the application preferred by the respondent-tenant for recall of AW-1/Sham Kumar Kohli for further cross-examination, has been allowed.

It is the contention of learned counsel for the petitioner that initially after filing of the eviction petition, written statement was filed by the respondent-tenant and the evidence was accordingly led by the petitioner. At a belated stage, an application for amendment of the written statement was filed which was allowed by the Rent Controller, Ludhiana on 20.07.2016 and with the present application which has been moved by the respondent, an effort has been made to fill in the lacuna in his evidence which cannot be permitted as prejudice would be caused to the petitioner. Further, the effort appears to be to delay the proceedings so that the final decision in the Rent Petition does not come at an early date, prayer has thus been made for setting aside the impugned order.

I have considered the submissions made by learned counsel for the petitioner and with his able assistance have gone through the documents

which have been placed on record as also the impugned order.

It is apparent from the record and pleadings as also the impugned order that AW-1 Sham Kumar Kohli had appeared as a witness and was examined on 17.03.2015, which was much prior to the application under Order 6 Rule 17 CPC, preferred by the respondent, being allowed where the amendment to the written statement was made on 20.07.2016. The plea which has been taken by the respondent-tenant in the amendment pertained to the start of a business by the petitioner along with her daughter-in-law for the business of sale and purchase of ladies suits and sarees in SCF No.33, situated at Bahadur House, Ludhiana which has been allowed only on 20.07.2016. It is in the context of the said amendment that now AW-1 Sham Kumar Kohli has been sought to be recalled for his further cross-examination. The order as has been passed by the Rent Controller, Ludhiana dated 03.11.2016, cannot be said to be unreasonable or beyond the pleadings rather it is based upon proper appreciation of the facts and circumstances of the case which do not call for any interference by this Court in exercise of revisional jurisdiction.

The revision petition, therefore, stands dismissed.

Since the main appeal stands dismissed, *CM No.25377-CII of 2016* also stands dismissed as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

December 13, 2016

ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No