

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120

Civil Revision No. 8663 of 2015

Date of decision: January 18, 2016

Taj Mohammad

...Petitioner

Versus

Mst. Salma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sherry K. Singla, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 05.10.2015 passed by the Rent Controller, Malerkotla, whereby the application under Order 18 Rule 17 CPC filed by the petitioner-tenant for recall of respondent No. 1-landlord for cross-examination has been dismissed.

2. It is the contention of the learned counsel for the petitioner that an application was filed on 18.04.2015 for recall of respondent No. 1-landlord for further cross-examination. He contends that the counsel for the petitioner before the Rent Controller was changed on 25.08.2014 and after that, the evidence of respondent No. 1-landlord was going on in the trial and, therefore, there was no occasion for the petitioner to file an application for recall of respondent No. 1-landlord prior to the date of closing of the

evidence. The evidence having been closed on 18.04.2015, the present application has been filed on 20.05.2015 without wasting any time. He, thus, contends that there has been no delay on the part of the petitioner-tenant in filing the present application and, therefore, the same may be allowed as grave prejudice would be caused to the petitioner because the petitioner has to put the Rent Agreement dated 18.08.2003 (Annexure P-2) in cross-examination, which is an admitted document by the respondent-landlord, which is material.

3. I have considered the submissions made by the learned counsel for the petitioner and with his assistance, have gone through the impugned order but do not find any merit in the said contentions.

4. It is not in dispute that the cross-examination of the landlord was concluded on 02.07.2014. Thereafter, counsel was changed by the petitioner-tenant in August, 2014. Assuming, there was any justification for moving an application for recall of the respondent-landlord, the said application could have been filed forthwith. Admittedly, the present application has been filed only on 20.05.2015 that too, after the closing of the evidence of respondent No. 1-landlord. There has been an inordinate delay on the part of the petitioner or rather it may be taken to be an intentional delay on the part of the petitioner to delay the proceedings before the Rent Controller because it is not in dispute that it is a pleaded case of the petitioner on the basis of the Rent Agreement dated 18.08.2003 (Annexure P-2) and, therefore, there is no justification that there could be no cross-examination of the respondent-landlord on the said document. The order, as passed by the Rent Controller dated 05.10.2015 (Annexure P-8),

does not call for any interference by this Court.

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

January 18, 2016
pj

(AUGUSTINE GEORGE MASIH)
JUDGE