

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8737 of 2015

Date of Decision: 25.02.2016

Parmod Kumar

... Petitioner(s)

Versus

Pawan Kumar and Another

... 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. Mandhir Singh Virk, Advocate
for the petitioner(s).

Mr. Jitender K. Goel, Advocate
for the respondents.

Shekher Dhawan, J.

Present petition is challenge to the order dated 16.11.2015, passed by learned Civil Judge (Junior Division), Bilaspur whereby application under Order 15 Rule 5 CPC for striking off defence of the defendants and for issuing directions to the plaintiffs to present their mother Smt. Saraswati Devi for the purpose of cross-examination was declined.

Relevant facts of the case for the purpose of decision of the

present petition that directions were issued to the present petitioner to make payment of rent at the rate of ₹ 1,000/- per month along with interest w.e.f. 1.4.2011 till final disposal of the suit, failing which defence of the respondents would be struck off.

Learned counsel for the petitioner submitted that admitted rent in this case is ₹ 430/- per month for the shop in question. Earlier thereto, rate of rent was ₹ 225/- per month on the basis of rent deed Ex.P2. Receipts were being issued for the same rate of rent. However, the Court below placed reliance upon the statement of petitioner in some other litigation and taken erroneous view as regard admitted rate of rent and the said order is liable to be set aside.

Learned counsel for the respondents submitted that petitioner himself appeared in another case and admitted that rate of rent of shop in question was ₹ 1,000/- per month.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the litigation is regarding payment of rent. Other facts being not in dispute and only the matter of controversy is regarding admitted rate of rent. As per petitioner, admitted rate of rent is ₹ 430/- per month but as per respondents, admitted rate of rent is ₹ 1,000/- per month. The Court below has rightly taken the view that at present admitted rate of rent of the shop in question is ₹ 1,000/- per month. For that purpose, statement of petitioner Parmod Kumar himself was relied upon and in the cross-examination he has specifically admitted that rate of rent of the shop in question is ₹ 1,000/- per month. But no rent receipt is

being issued nor there is any rent note in that regard. The Court below has rightly placed reliance upon judgment of this Court in ***Gurinder Singh and Others v. Kundan Lal 2005(1) RCR (Rent) 332***, wherein this Court took the view that admission having been made by the party himself can be relied upon and can be taken as an admission. In the case in hand, the Court below has rightly directed the present petitioner to make payment of rent at the rate of ₹ 1,000/- per month along with interest w.e.f. 1.4.2011 till final disposal of the suit, failing which defence of defendant shall be struck off. Present petition is without any merit and the same stands dismissed. However, it is made clear that if at the time of final adjudication, the Court below comes to the conclusion that rate of rent was not ₹ 1,000/-, present petitioner shall be entitled to seek refund or adjustment against the rent due.

(Shekher Dhawan)
Judge

February 25, 2016

"DK"