

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Revision No.1551 of 2017(O&M)

Date of decision: 18.5.2017

M/s D.Ram & Company and others

...Petitioners

Versus

Dayanandl Medical College & Hospital Managing Society (Regd.)

...Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Namit Gautam, Advocate for the petitioner.

Mr. D.S.Sobti, Advocate for

Mr. B.S.Sobti, Advocate for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The petitioner-tenant is aggrieved against the order dated 20.1.2017 passed by the Rent Controller, Ludhiana whereby issues were framed.

Firstly argument raised is regarding issue no.3 as to “Whether the present petition has not filed through authorised person?OPR” and that onus has been wrongly put upon the tenant. It is contended that onus would lie upon the landlord as such and reliance has been placed upon the judgment of the Apex Court in **Thiruvengada Pillai Vs. Navaneethammal & another 2008(4) SCC 530.**

Counsel for the respondent does not oppose this prayer and submits that issue may be recasted and reframed and the onus may be shifted upon the landlord.

Accordingly issue no.3 is recasted as to “Whether the present petition has been filed through authorised person?OPP” and the onus is shifted upon the landlord.

Mr. Gautam, counsel for the petitioner has further contended that as proposed in his application dated 16.12.2016 (Annexure P/4) for framing of issues, issue no.5 as to “Whether the tenancy premises are required to be in occupation by the petitioner for getting the plan sanctioned

from Municipal Corporation, Ludhiana?OPP” as such which was proposed to but the same was never incorporated in the issues.

In the opinion of this Court, this issue is not relevant as such for adjudication of the eviction petition interse the parties. It is only in case if the petition is decided in favour of the landlord, it is for the landlord as to how he is to use the property as per the claim set up in the eviction petition. It is not for the Rent Controller to go into this aspect and the said issue is not relevant for determining the real controversy in question. Accordingly, the said argument is rejected.

Regarding proposed issue no.6 as to “Whether the property in Tagore Nagar, Civil Lines, Ludhiana occupied by the petitioner is highly deficient and insufficient to cater to the needs of the petitioner?OPP” would be covered under issue 1-A which has already been framed as to “Whether the petitioner bonafidely requires the demised shop for his use and occupation?OPP” and onus has been put upon the landlord.

In such circumstances, this argument is also not liable to be accepted.

Accordingly, the present revision petition is disposed of in the aforesaid terms.

May 18, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No