

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.2336 of 2015 (O&M)
Date of decision: 03.05.2017

Inder Singh Kataria

....Petitioner

Versus

Managing Committee Arya College Panipat (Regd.) through its Principal &
another

...Respondents

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

Present: Mr.Yashveer Kharb, Advocate, for
Mr.Ajay Ghanghas, Advocate, for the petitioner.

G.S. SANDHAWALIA, J.

CM-7031-CII-2015

Application for condoning the delay of 103 days in refiling the present petition, is allowed and delay of 103 days is condoned, in view of the averments made in the application, duly supported by an affidavit.

Application stands disposed of.

CM-7032-CII-2015 in/and CR-2336-2015

The present revision petition, filed by the petitioner-tenant, is directed against the order passed by the Rent Controller, Panipat, dated 28.09.2011, whereby eviction has been ordered on the ground of *bona fide* necessity of the respondent-College. Challenge has also been raised to the order dated, 06.12.2012, passed by the Appellate Authority, Panipat, upholding the said order.

Firstly, it is pertinent to mention that the present revision petition was filed on 24.09.2014. After almost 2 years of the passing of the appellate order. Resultantly, an application has also been filed for

condoning the delay of 564 days in filing the present revision petition. The reasoning given in the application itself is also, on the face of it, not justified, since it is pleaded that the counsel had not informed the applicant of the decision of the appeal and he only came to know about the same on 15.09.2014 and thus, the present revision petition was filed after engaging the counsel.

A perusal of the certified copy of the appellate order would, however, go on to show that the order was applied on 11.12.2012, five days after the order itself. The same was prepared on 13.12.2012 and supplied on 18.12.2012. Thus, the alleged ground, as such, itself, on the face of it, is patently dishonest, since if the knowledge had come on 15.09.2014, the copy could not have been applied immediately after the decision of the appeal. No doubt, there is no limitation prescribed for filing of revision petition under the Act, but still it must be filed within reasonable time. Reliance in this regard can be placed upon the judgment rendered in **Smt. Rama Talwar Vs. Smt. Maya Devi 1991 (2) PLR 109.**

Relevant observation reads as under:

“7. The resume of the facts clearly points out that the petitioner is interested only in delaying the proceedings. No doubt, no limitation is prescribed in filing the revision petition under the East Punjab Urban Rent Restriction Act, as applicable to the Union Territory, Chandigarh, but still it must be filed within a reasonable time. Ejectment order was passed on 1.4.89, whereas the present revision petition has been filed on 12th of Feb. 1991. It cannot be said that the present revision petition was filed within a reasonable time. At the time of the admission of the appeal, the petitioner was directed to deposit the arrears of rent, but no arrears of rent were deposited by the petitioner, which was @ Rs.

500/- per month. The mala fide of the petitioner is also apparent from the fact that two ejectment petitions were filed by the landlady on 12th of July, 1989 and 7th of Sept. 1989 respectively and in both the petitions the order of ejectment was passed against the petitioner as she was found to be in arrears of rent @Rs. 500/- per month. Both the orders still remain unexecuted.”

Resultantly, this Court is of the opinion that the delay is not liable to be condoned and the revision petition merits dismissal on this account itself, especially, keeping in view the fact that the explanation given itself is lame and no sufficient cause, as such, has been made out for condoning the inordinate delay in filing of the appeal.

Coming on the merits of the case, it is to be noticed that eviction was sought by the respondent-College on the ground that the premises were given on rent w.e.f. 01.01.1997 and the same were required for the personal necessity, on the ground that the strength of the students in the College has increased. The demised premises as well as the adjoining shops were required for the construction of rooms and laboratory for expansion. Apart from that, the element of nuisance, arrears of rent and subletting were also pleaded.

The College examined its Principal, who produced as many as 18 documents, which were duly exhibited whereas the petitioner examined 4 witnesses and placed on record 5 documents.

On account of the fact that the rent had been tendered, the ground was not pressed. The issue of subletting was also decided in favour of the tenant on the ground that respondent No.2 was an employee in a STD booth being run in the premises. The nuisance aspect was also

not held attributable at the hands of the present petitioner.

However, on the ground of personal necessity, the defence that the College had built up a library in the first floor of the shops, was rejected by examining the evidence that there was an increase in the number of the students in the College and various new courses had been introduced. The purpose of expansion of College for library and administrative block was, accordingly, held to be reasonable, keeping in mind the principle that the landlord is the best judge of his requirements and the tenant could not, as such, put a spoke in the wheel regarding the said aspect.

The said matter was again thrashed out by the Appellate Authority, since an argument was raised that there was a pick and choose against the tenants. The said argument was rejected by noticing that the ejectment petitions against the other tenants abutting the GT road had also been filed. Merely because the landlord had sold some properties which could have been utilized for raising new rooms and library, was held not to be a ground, since the property was situated beyond the limits of the College and along the railway line. It was noticed that the respondent-Institute was one of the leading educational institution of the city and the Principal of the College, as such, had appeared as a witness to depose about the *bona fide* need and requirement. The students' strength had gone up to 3000 from 1376 in the year 1998-99, as per reports Exts. P7 & P8. The College having been granted the status of Post-Graduate College and number of new courses having been

introduced and the requirement of new rooms for the purpose of library, laboratory, was the need of the day. The correspondence with the affiliating University, namely, the Kurukshetra University was also taken into consideration, to notice that as many as 82 rooms were required and the College had only 65 rooms and therefore, once the purpose was to provide better facilities to the students, the need of the premises were *bona fide*, as such.

The argument raised that the revision petitions of other tenants are also pending before this Court, as such, would not be a ground to deny the *bona fide* need of the respondent-landlord. Rather, the said factum only goes on to show that there is no pick and choose policy, as such and it is not that the petitioner, who has been singled out and eviction has also been sought from the other similarly situated tenants for the purpose of expansion. The findings recorded by the Courts below are factual findings and the same are liable to be upheld as the same do not suffer from any procedural infirmity or irregularity which would warrant interference by this Court under revisional jurisdiction.

Accordingly, finding no merit in the present revision petition, the same is, hereby, dismissed in limine, both on merits and on account of limitation also.

03.05.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No