

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.2096 of 2017

Date of decision: 04.05.2017

Col. Harjeet Singh Pathania

....Petitioner

Versus

Ajay Sharma

...Respondent

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

Present: Mr.N.S.Panwar, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present revision petition, filed by the petitioner-tenant, is to the order passed by the Rent Controller, Gurugram dated 23.01.2017 (Annexure P5) whereby the application for summoning of other witnesses after depositing diet money, was rejected.

The Rent Controller noticed that 14 effective opportunities had been given to complete the evidence but no list of witnesses had been filed. The tenant had been permitted to examine the witnesses after taking assistance from the Court and still evidence could not be concluded and he had been directed to conclude the same by the said date. Bailable warrants were issued qua another witness who had not put in appearance whereas the application for summoning the witnesses and depositing the diet money was held not to be maintainable, at that stage, by holding that a party cannot be allowed to examine witnesses at any stage as it would result in an unending process.

A perusal of the zimni orders would go on to show that on 11.03.2016, the landlord closed his evidence and case was fixed for the tenant's evidence. Thereafter, arguments on the application were not advanced on 4 dates, which was filed for supply of the medical CD produced by the landlord. The same was eventually allowed on 18.05.2016

by the Court. Thereafter, another application was allowed whereby the landlord was directed to answer the interrogatories and produce on record the documents asked for. On 01.08.2016, no witness was present and an application was filed for compliance of orders dated 18.05.2016. Same was disposed of on 03.08.2016 and the respondent witnesses were directed to be present on 10.08.2016.

No witness was present on that date and on 23.08.2016. The petitioner examined himself by tendering his affidavit on 10.08.2016 and was not present for cross-examination on 15.09.2016. Last opportunity was granted by the Rent Controller and he was cross-examined on 26.09.2016 and no other witness was present. The Court issued directions that the examination of all the remaining un-examined respondent witnesses be done on the next date, which was 04.10.2016. On the said date, one Sukhdev Singh was present and examined as RW2 and on 25.10.2016, RW3, Satish Chander, Junior Intelligence Officer was present.

The summons issued to the official of Fortis Hospital, Gurugram had been received back that necessary details were not given and it was directed that necessary details be given. Thereafter, on 16.11.2016, Alok Maan and Vinay Sharma from the Fortis Hospital, Gurugram and Mohali, were examined. On 14.12.2016, no witness was present and the case was deferred to 11.01.2017, which was to be the last opportunity. Dr.Jagmohan was examined on the said date and accordingly, final opportunity was given to conclude the evidence on the

part of the petitioner. Thereafter, the application was filed, which has now been dismissed vide the impugned order.

From the above sequence of events, it is apparent that for the last one year, repeated opportunities had been given to the petitioner to examine the witnesses and at the fag end, again an application was filed giving a fresh list of witnesses, which the Court, in such circumstances, had rightly declined. The petition was filed on 26.09.2014 and as noticed, the landlord had closed his evidence on 11.03.2016. Thereafter, adequate opportunities had been granted to the petitioner to defend his case. The order impugned, as such, does not suffer from any material irregularity and neither has occasioned a failure of justice, 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.

04.05.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*