

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2517 of 2017 (O&M)

Date of decision:23.05.2017

Krishnawanti

....Petitioner

Versus

Rakesh Kumar

...Respondent

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

Present: Mr.Chandandeep Singh, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral):

CM-11730-CII-2017

Application for placing on record the interim orders (Annexure P3), is allowed, in view of the averments made in the application, duly supported by an affidavit. Same is taken on record. Office to append the same at appropriate place.

CM stands disposed of.

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The petitioner-landlady, being a senior citizen of 82 years of age, has approached this Court under Article 227 of the Constitution of India, praying for direction to expedite the proceedings in the Rent Application No.35 titled *Krishnawanti Vs. Rakesh Kumar*, pending in the Court of Shri Ajay Pal Singh, Rent Controller, Ludhiana, wherein the next date of hearing is stated to be 30.05.2017.

The rent application has been filed on on 25.08.2010, on the grounds of non-payment of rent and *bona fide* need of the grandson. The petitioner-landlady closed her evidence in August, 2013. Reference is made to the zimni orders (Annexure P3), to show that 2 witnesses were examined

by the tenant on 01.10.2013 and it was directed that no new witness would be allowed to tender. Thereafter, an application for admission or denial of documents was filed on 16.10.2013, which was dismissed on 01.11.2013. On 20.11.2013, an application, under Order 6 Rule 17 CPC was filed, which was dismissed on 18.03.2015. Thereafter, time had been taken on the ground that a revision had to be filed against the said order.

On 04.09.2015, application for permission to visit the property and to prepare a plan of the entire building, was allowed and the report was tendered on 12.10.2015. Another witness of the tenant, RW3 was examined on 05.11.2015 and he was cross-examined on 06.01.2016. Another witness was examined on 21.01.2016 and cross-examined on 18.02.2016 and at that stage, an application had also been filed to examine the respondent by way of additional evidence, which was allowed on 11.07.2016. It was also noticed that the order whereby the application under Order 6 Rule 17 CPC had been dismissed, had also been upheld by this Court on 11.05.2015. An application was, thereafter, filed for production of documents on 16.08.2016, reply to which was filed on 01.09.2016. Eventually, the said application was dismissed on 19.10.2016. Thereafter, an application was filed for leading secondary evidence on 22.11.2016, which was allowed on 20.01.2017.

Thereafter, another application under Order 6 Rule 17 CPC, for bringing on record subsequent events and similarly situated alternative accommodation having become available to the petitioner was filed on 01.03.2017 and the case was adjourned for filing reply. On

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27.03.2017, reply was filed and the case is now pending consideration, for 30.05.2017, as stated by counsel for the petitioner.

Thus, a perusal of the above-said zimni orders would go on to show that dilatory tactics are being adopted by the respondent-tenant successfully and the Rent Controller has permitted the said exercise and has not taken into consideration the observations in **Sandeep Ghai Vs. Neeraj Malhotra 2010 (1) RCR (Rent) 166** wherein directions had been issued in cases of personal necessity where the matters are pending for long that the whole process should not be allowed to be defeated. It was, accordingly, directed that such petitions should be disposed of within a period of 6 months and information was sought and directions were, accordingly, issued to the District Judge to maintain a tab to ensure that the information was sent to the Registry of this Court.

As noticed, a period of almost 4 years have gone by since the tenant is leading his evidence. On repeated occasions, applications for amendment have been filed, similarly, application for secondary evidence have also been filed and for production of documents. On an initial date, way back on 01.10.2013, it was also noticed that no other evidence was to be permitted, but inspite of that, the Rent Controller has granted substantial latitude and allowed 2 more witnesses to be examined and the tenant examined himself again. The *bona fide* necessity is to be seen on the date of filing of the petition and now, an application has also been filed for bringing on record subsequent events. On the face of it, seems to be only a *mala fide* application filed to wear out the aged landlady.

In such circumstances, the present revision petition is allowed and the Rent Controller, Ludhiana is directed to start proceedings on day-to-day basis, in the Rent Application No.35 titled *Krishnawanti Vs. Rakesh Kumar*, and submit the necessary report of compliance that the trial has been completed by 31.07.2017. Copy of this order be sent to the District Judge, Ludhiana, to ensure that the order is duly complied with.

23.05.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*