

**110-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.3065 of 2017 (O&M)
Date of Decision: November 08, 2017**

Sandeep Ghai

..... Petitioner

Versus

Harminder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. D. S. Patwalia, Senior Advocate with
Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Vikas Bahl, Senior Advocate with
Mr. Amandeep Singh, Advocate and
Mr. Vikram Anand, Advocate
for the respondents.

DEEPAK SIBAL J. (ORAL)

The respondents-landlords through a petition filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, sought the eviction of the petitioner-tenant from house No.100(old) B-XX-2865 (new), Gurdev Nagar, Ludhiana (for short 'the tenanted premises') on several grounds including the ground that the respondents needed the tenanted premises for their own use and occupation. During the course of the proceedings before the Rent Controller, Ludhiana, Harminder Singh, who is one of the landlords, while appearing as PW-1 tendered 157 documents which were permitted to be exhibited as Exhibit P-1 to P-157. Through an application filed by the petitioner-tenant, the afore-referred documents were sought to be de-exhibited. Through order dated

28.07.2016, the Rent Controller dismissed the application as he was of the view that the veracity and genuineness of the exhibited documents was yet to be tested and the objections of the petitioner would be considered by the Rent Controller at the time of final arguments. Being aggrieved by the order of the Rent Controller dated 28.07.2016, the petitioner-tenant knocked the doors of this Court through **Civil Revision No.5770 of 2016 – “Sandeep Ghai vs. Harminder Singh and others”** which was disposed of on 07.02.2017. The operative part of such order reads as under:-

“Although, the strict procedure of CPC is not applicable to the proceedings under the Rent Act except for as made applicable but if some provision is adopted by the Rent Controller, then it would be applicable and in any case at least the basic principles as expressed above by this Court fulfilling the requirement of principles of natural justice and fair play, causing no prejudice to any party to the lis. The procedure so adopted should be for the just adjudication of the case in order to solicit and find out the truth during the enquiry.

In the present case procedure as laid down under Order XVIII, Rule 4 of the CPC has been adopted and followed by the Rent Controller as the examination-in-chief of Harminder Singh (PW1), respondent No.1 herein, has been taken on affidavit alongwith attached documents. Objections to the proof and admissibility of these documents have been raised by the petitioner herein, which, according to the proviso to Rule 4(1) of Order XVIII, shall be subject to the orders of the Court, which have not been passed by the Rent Controller.

It has been held above that whether a document is admissible or not in evidence has to be decided at the time the same is put in/proved and/or questioned to the witness. This procedure needs to be followed except in cases where objection is raised but further/other evidence is expected,

which would remove the objection. Decision in such situations, on objections, may be deferred by recording so but should be, in any case, given before the judgment is pronounced finally to avoid any prejudice to any party. In the case in hand the Rent Controller has not passed any order on the objections raised by the petitioner herein on the documents which cannot sustain.

In view of the above, this court is of the considered view that the Rent Controller should have proceeded to pass appropriate order on the objection raised by counsel for the petitioner herein with regard to the mode of proof and admissibility of the attached documents alongwith the affidavit tendered in evidence by respondent No.1 (PW1) in examination-in-chief on 12.04.2016 prior to admitting the documents in evidence as exhibits. It may be added here that there is no provision for de-exhibiting the documents which have already been exhibited in evidence. However, mere exhibition of the said documents does not dispense with the proof of its execution, veracity and genuineness, which is to be tested.

A direction is, thus, issued to the Rent Controller to decide the objections as raised by counsel for the petitioner with regard to the admissibility of the documents prior to further proceeding with the case, if already not decided.

The present revision petition stands disposed of in the above terms.”

(Emphasis supplied)

In compliance with the afore-quoted directions, the Rent Controller, Ludhiana again took up the matter and passed an order dated 20.04.2017 through which it was observed that the matter was at the stage of examination of Harminder Singh as PW-1, who in the course of such examination had tendered the afore-referred 157 documents. The admissibility of these documents had been questioned by the petitioner-tenant primarily on the ground that the same were photocopies. The Rent

Controller was of the view that since the deposition of Harminder Singh was incomplete as he was yet to be cross-examined, he adjourned the matter for Harminder Singh's cross examination with a further direction to him to produce the originals of the afore-referred 157 documents. It was further observed by the Rent Controller that in the absence of production of the said original documents, he shall pass necessary orders with regard to them being exhibited or otherwise in terms of the afore-quoted directions of this Court passed in ***CR No.5770 of 2016 – “Sandeep Ghai vs. Harminder Singh and others”***. It is the order dated 20.04.2017 passed by the Rent Controller which is the subject matter of challenge before this Court in the present petition.

Learned Senior counsel appearing on behalf of the petitioner submitted that before proceeding any further with the matter, in terms of the directions given by this Court in ***CR No.5770 of 2016 – Sandeep Ghai vs. Harminder Singh and others***, the Rent Controller, Ludhiana should have first decided the objections filed by the petitioner to the admissibility of the documents Exhibit P-1 to P-157. It was clear from the impugned order that the Rent Controller had not done so. Therefore, he submitted that after setting aside the impugned order, appropriate directions be issued to the Rent Controller that before proceeding any further with the matter, the petitioner's objections to the admissibility of the exhibited documents be decided first.

The above contention was rebutted by learned Senior counsel appearing on behalf of the respondents. He submitted that the examination of PW-1 Harminder Singh was incomplete as the matter had admittedly now been posted for his cross-examination. In the impugned order, the

witness had further been directed to produce the originals of Exhibits P-1 to P-157 with a further observation that in the absence thereof orders shall be passed with regard to the exhibition of the documents. No final order had yet been passed with regard to the exhibition of the documents and therefore, the present petition was premature.

Learned counsel for the parties have been heard and with their able assistance, the record of the case has been perused.

Objections have been filed by the petitioner to the admissibility of documents which have been exhibited as Exhibit P-1 to P-157. Such documents have been tendered by PW-1 Harminder Singh during the course of his examination which is admittedly not complete as he is yet to be cross-examined. At that stage, before the witness is subjected to cross-examination, through the impugned order, the Rent Controller has directed PW-1 to produce the originals of the documents tendered by him with a further observation therein that in the absence of production of the originals, necessary orders shall be passed with regard to their exhibition. It is apparent that such directions have been passed by the Rent Controller only to facilitate him to pass a final order in terms of the afore-quoted directions given by this Court through order dated 07.02.2017 passed in *Sandeep Ghai's case (supra)*. No final order in that regard has yet been passed. The present petition is, thus, held to be premature.

While expecting that the Rent Controller would abide by the directions given by this Court in *CR No.5770 of 2016 – Sandeep Ghai vs. Harminder Singh and others* on 07.02.2017, at this stage, in the present

petition, no further orders are required to be passed.

The petition stands disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

November 08, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No