

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

C.R. No. 4732 of 2016
Date of decision: 27.04.2017

Rajinder Kumar

....Petitioner(s)

Versus

Veena Sahnan

...Respondent(s)

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

Present: Mr. Sham Lal Bhalla, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition by the tenant is directed against the order dated 31.05.2016 (Annexure P-7) whereby, the application for additional evidence was dismissed by the Rent Controller, Ludhiana.

The reasoning which weighed with the Rent Controller was that the application had been filed at the stage when the evidence of the tenant had been closed after suffering a separate statement on 27.01.2016. Thereafter, the case had been fixed for rebuttal evidence and arguments. Vide the above application, the lacuna could not be permitted to be filled up and having been moved at the fag end, there was no justification as such to allow the application at that stage.

A perusal of the paper book would go on to show that the claim of the respondent-landlord was that the premises which was a shop in question was bonafidely required for the purposes of the son of the landlady namely Tarun Sahan who wanted to start independent business of computer hardware and networking. It had been averred that the son did not own or

possess any property in the urban limits of Ludhiana and nor the landlady or her son had vacated any property of such nature.

As noticed, after the evidence was closed in January, 2016, the application for additional evidence was filed taking the plea that another tenant had filed a suit for permanent injunction which was pending in another Court. Similarly, an ejectment petition was also pending against the said tenant namely Varinder Chopra and, therefore, the copy of the pleadings of the said litigation were sought to be placed on record. The tenant wanted to prove that one shop owned by the landlady was still lying vacant on the ground floor and, therefore, the evidence as such was necessary.

The application was opposed by the landlady wherein, it was mentioned that there were four shops and one shop was occupied by the husband and one shop was in possession of Smt. Priyanka Rani and one shop was in the possession of the elder son. The last shop was in possession of the present petitioner and no shop was lying vacant. It was denied that any shop had been let out to Varinder Chopra and only Priyanka Rani had taken the shop and ejectment application had been filed against her and there was no relevancy of the said case. The petitioner had knowledge about the litigation and the evidence was not necessary to pronounce the judgment. It is settled principle that additional evidence is to be permitted which is necessary for the adjudication of the case and also wherein the said evidence comes in existence at a subsequent stage.

A perusal of the application would go on to show that the earlier litigation is of the year 2015 and the litigation was already pending and, therefore, in case there was any relevance as such, the same should

have been brought on record earlier when the tenant was leading the evidence. After the evidence was closed, the case was fixed for rebuttal evidence and arguments. The application for additional evidence is thus only for lingering on the proceedings which is going on since 2011. The Court is to decide on the basis of the pleadings which are already on record and the additional evidence as such which is now sought to be placed pertains to another set of litigation of another alleged tenant and, therefore, has no relevance as such to the present dispute.

Accordingly, this Court is of the opinion that no infirmity can be found in the order passed by the Rent Controller and the present revision petition is dismissed in limine. Needless to say that the order passed will not prejudice the Rent Controller while deciding the main case on merits as it is only for the purpose of deciding the present revision petition.

27.04.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No