

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Revision No.5648 of 2015 (O&M)
Date of Decision:29.08.2017

Harjinder Singh Chaggar and another ...Petitioners

Versus

Ashish Singh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankit Chowdhri, Advocate
for the petitioners.

Mr. Rakesh Bhatia, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff is in revision petition against the order dated
23.07.2015.

The grievance of the plaintiff is that unconditional leave to
defend has been ordered although the defence put up by the defendant was
sham.

Plaintiff-petitioner had filed a suit for recovery of following
amount:

- '11. *That the plaintiffs are entitled for recovery of*
Rs.4,75,960/- from the defendants as detailed below:
- a. *Rent w.e.f. 1.6.2011 to February, 2014: Rs.3,04,560/-*
 - b. *Electricity charges: 1,11,750/-*
 - c. *Water and maintenance charges to society: Rs.22,400/-*
 - d. *Interest at the rate 6% p.a. on rent: Rs.23,360/-*
 - e. *New electricity connection charges: Rs.13,890/-*

It is not in dispute that plaintiff is a landlord and defendant is a
tenant. The plaintiff earlier filed a proceeding for eviction of the defendant
from the premises in dispute. Provisional rent was assessed. Tenant did not

pay the provisional rent and therefore, he was ordered to be evicted.

It is further not in dispute that the defendant had issued certain cheques for payment of rent. Those cheques were dishonoured. Defendant was convicted under Section 138 of Negotiable Instruments Act.

Defendant in the application for leave to defend has submitted that he is entitled to recovery of excessive electricity charges. Defendant had also claimed that he had spent certain amounts on the kitchen work, wood work, paint and white wash etc. It is further not in dispute that one of the defendants had filed a suit for recovery against the landlord for the aforesaid charges. The aforesaid suit has been dismissed by the Court vide judgment and decree dated 25.05.2017.

In view of these facts, which are not in dispute, I am of the considered opinion that the trial Court was not correct in granting unconditional leave to defend. The Court should have examined the defence put forth by the defendant in the application for leave to defend. The order passed by the Court is totally non-speaking.

In view of, undisputed facts narrated above, I feel that the order passed by the trial Court dated 23.07.2015 is liable to be modified. The defendant would have leave to defend the suit, however, that will be subject to furnishing the security of immovable property equivalent to the amount claimed in the suit. In view thereof, the revision petition is disposed of while modifying the order in the above terms. Learned trial Court is directed to decide the suit within a period of one year from today.

August 28, 2017
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No