

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

CR No.5429 of 2017

Date of Decision: August 23, 2017

Simmi

..... Petitioner

Versus

Kulbir Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vikas Bali, Advocate
for the petitioner.

DEEPAK SIBAL J. (ORAL)

Through the present petition filed under Article 227 of the Constitution of India, the petitioner seeks issuance of directions to the Rent Controller, Ludhiana to decide the '*Rent Petition bearing No.35242 of 2013 – Simmi vs. Kulbir*' in a time bound manner.

On a perusal of the produced record and after hearing learned counsel for the petitioner, it is revealed that four years ago i.e. in August 2013, the petitioner had filed a petition under Section 13(3)(a)(i) of the East Punjab Urban Rent Restriction Act (for short 'the Act') seeking therein ejectment of the respondent from a shop forming part of the property bearing MC No.B-30/198, measuring 43 Sq. Yds. situated at village Sherpur Khurad, Abadi Sherpur Khurad Market, Ludhiana (for short 'the tenanted premises'). The grounds for seeking such eviction were that the petitioner needed the tenanted premises for her own use and that the respondent had made material alterations in the tenanted premises without the consent of the petitioner.

Upon notice, the respondent appeared before the Rent Controller, Ludhiana and filed his written statement denying the case set up by the petitioner. After framing of issues, the petitioner led her evidence and completed the same on 28.11.2014 and the matter was adjourned to 10.12.2014 for the respondent to lead his evidence. On that date, as also for the next 02 dates, no evidence was led by the respondent. Instead, on 07.02.2015, the respondent moved an application seeking amendment of his written statement which application was dismissed on 22.04.2015. Soon after the dismissal of the above application, on 23.07.2015, the respondent moved another application for fixing the diet money and permission to deposit the same. This application was allowed and witnesses-Smt. Rama Garg and Sh. Rajiv Goyal were summoned and accordingly on 04.01.2016, they put in appearance. Through application dated 04.02.2016, the respondent sought initiation of proceedings against not only the aforesaid witnesses-Smt. Rama Garg and Sh. Rajiv Goyal but also against their respective counsels on the ground that on 04.01.2016, Smt. Rama Garg and Sh. Rajiv Goyal had tendered their affidavits without the consent and consultation of the respondent's counsel. Such application through order dated 20.10.2016 was considered and rejected by the Rent Controller, Ludhiana after holding that the same was not maintainable and had been filed only to delay the proceedings.

The interim orders passed by the Rent Controller show that from 10.12.2014 till March 2017, the respondent failed to lead his entire evidence. Instead, in March 2017, the respondent preferred another application for procuring the presence of afore-referred witnesses-Smt. Rama Garg and Sh. Rajiv Goyal, who had earlier tendered their

statements in examination-in-chief through their affidavits. Through the application, it was prayed that their presence be procured for leading of their evidence again. On such application, notices were issued to Smt. Rama Garg and Sh. Rajiv Goyal, who appeared in person on 28.04.2017. On 27.07.2017, another application was filed by the respondent for permission to record the statements of the respondent witnesses namely Rama Garg and Rajiv Goyal. In this application, notice has been issued and the same is stated to be pending. It is in these circumstances that the petitioner has approached this Court through the present petition for the afore-mentioned relief.

It cannot be disputed that 04 years ago, the petitioner filed the eviction petition seeking therein the respondent's eviction. The record further reveals that she closed her evidence on 28.11.2014 and nearly three years thereafter the respondent is yet to complete his evidence. The above delay in disposal of the eviction petition which includes the ground of personal necessity virtually defeats the purpose for which it has been instituted.

In view of the above, I deem it proper to request the Rent Controller, Ludhiana to consider and take a final decision on the petitioner's eviction petition expeditiously and see to it that there is no undue delay occurring in its disposal. Subject to the other matters listed before the Rent Controller which may deserve priority, the present matter may be finally adjudicated upon by resorting to day to day hearing or by granting of short dates.

Needless to add that the proceedings already filed or to be filed shall be considered and decided by the Rent Controller in

accordance with law and only after giving of adequate opportunity to either side.

The petition stands disposed of on the above terms.

August 23, 2017

rittu

(DEEPAK SIBAL)
JUDGE

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