

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

CR 6232/2015

Date of decision:10.08.2017

Jagdish Kumar @ Deva Nand

.....Petitioner

v.

Anil Kumar and Smt.Bimla Devi

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Raman Goklaney,Advocate for the petitioner/tenant

Mr.Gourav Chopra,Advocate for the respondents/landlords

Jaswant Singh,J,(Oral).

Petitioner/tenant is in revision assailing the order dated 3.9.2015 passed by the learned Rent Controller, Ferozepur whereby his application to examine a Handwriting Expert for comparing the handwriting on Mark-A, has been dismissed and also his evidence closed by order as he had already availed six previous effective opportunities to lead evidence.

The admitted facts are that landlords filed an eviction petition on 26.2.2014 on the grounds of arrears of rent w.e.f. 1.1.2007 @ Rs.500/- per month for the demised shop and personal necessity. The tenant filed a written statement admitting the relationship, however, asserted that the rate of rent was Rs.400/- per month and the rent had

been paid to Parmod, brother of landlord-Anil Kumar till 28.2.2014.

At the time of evidence of the tenant said Parmod Kumar was summoned by the petitioner and handwriting at Mark-A was put to him who denied the same. As a result an application for examining the handwriting on the writing Mark-A by an Expert was moved.

Learned counsel for the tenant has argued that the cause of action to examine the Handwriting Expert accrued when said Parmod Kumar denied the same and therefore, the tenant is entitled to grant of an opportunity to prove his case as asserted in the written statement.

On the other hand counsel for the respondents/landlords submits that the learned Rent Controller has rightly declined the request for comparing the handwriting as the original handwriting has never seen the light of the day, and therefore, in view of the settled law that the excerpts from a photocopy cannot be compared, no illegality has been committed while declining the request. It is further submitted that the tenant has, on one pretext or the other, successfully delayed the conclusion of the proceedings pending since 2014.

After hearing counsel for the parties and perusing the paperbook with their able assistance, this Court is convinced that there is no merit in the present revision petition. The plea that the original writing Mark-A is available with the tenant is of no consequence now as the same had to be produced at the time of filing of the application.

However, keeping in view the conspectus of the case, this Court is inclined to accept the other plea of grant of one opportunity to conclude

evidence of the tenant which is also not seriously opposed by the learned counsel for the landlords.

Accordingly, in view of the above, this revision petition is partially allowed and the impugned order dated 3.9.2015 is set aside to the extent that it “closes” the evidence of the tenant. It is directed that the Rent Controller,Ferozepur shall fix a date and grant one opportunity to tenant to conclude his evidence. It is hoped that the Rent Controller, Ferozepur shall decide the eviction petition expeditiously and preferably within two months from the date of receipt of certified copy of this order.

10.08.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No