

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

Civil Misc. No.1958-CII of 2017 in/and
Civil Revision No.635 of 2017
Date of decision: 01.02.2017

Anokh Singh Sekhon

...Petitioner

Versus

Sham Sunder Sharma and another

...Respondents

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

Present: Mr. Jaswinder Singh, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.1958-CII of 2017

Prayer made in the present Civil Misc. Application for granting exemption from filing certified copies of Annexures P/1 to P/5 and for seeking permission to place on record true typed copies thereof is allowed subject to just exceptions.

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.635 of 2017

The petitioner-landlord challenges order dated 3.12.2016 (Annexure P/6) passed by the Rent Controller, Ludhiana whereby his application to adduce evidence of the Building Expert/Chartered Engineer by way of additional evidence had been dismissed.

The reasoning given by the Court is that the petitioner had to prove his case by leading affirmative evidence at appropriate stage. The petitioner had examined the Local Commissioner and the said person had not even turned up for cross-examination. The evidence now sought to be led had not been proved by way of affirmative evidence and it would create new evidence to fill up the lacuna. It was noticed that the petition had been filed in 2010 and issues had been framed on 3.1.2013 and thereafter evidence of the petitioner had been closed on 22.8.2016 after availing forty opportunities. Accordingly, the case was fixed for rebuttal evidence.

A perusal of the eviction petition would go on to show that the

ejectment was sought from the shop in question on the ground of arrears of rent and house tax. The ground of addition/alteration by affixing heavy wooden frame in the side walls without consent of the landlord had also been taken to allege that value and utility of the shop in question had been materially impaired. The said allegation of material impairment was denied by the tenant.

It is also to be noticed that in the application itself also nothing has been mentioned as to which evidence could not be produced despite due diligence apart from averment that the landlord was an old person and not keeping good health and therefore, the Building Expert could not be examined. It has been clarified by the tenant that in the reply which had also been noticed by the Rent Controller, Ludhiana that the Local Commissioner had been got appointed for the said purpose but he did not appear for cross-examination. No effort was made to procure the presence of the said witness thereafter. It is thus apparent that the present application has only been filed to fill up the lacuna in the case itself and after evidence had been closed of the landlord. In such circumstances, the application does not fall within the parameters which are laid down for producing additional evidence.

Accordingly, finding no merit in the present revision petition, the same is dismissed in limine.

February 01, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No