

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

**Civil Revision No.641 of 2017 (O&M)
Decided on : 20.02.2017**

M/s Phaggu Mal Jiwa Ram

... Petitioner

Versus

Kumari Vatsala Singal and another

... Respondents

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

Present : Mr. Aman Bansal, Advocate for the petitioner.

G.S. Sandhawal, J.

CM-3661-CII-2017

Application for placing on record the cross-examination of respondent No.1 as Annexure P-6 is allowed, subject to all just exceptions. The same is taken on record. Office to tag the same at the appropriate place.

CM stands disposed of.

Main case

The present revision petition under Article 227 of the Constitution of India has been filed by the petitioner-tenant challenging the order dated 12.01.2017 (Annexure P-5) passed by the Rent Controller, Kalka whereby his application for serving upon the respondent-landlady interrogatories regarding certain facts was declined.

The reasoning given by the Rent Controller was that the case was fixed at the stage of evidence of the landlady and after that the application had been filed. The landlady had stepped into witness-box for cross-examination and sufficient opportunities had been given to cross-examine the said witness on the points which were considered relevant by

the applicant. After such exercise had been completed, the application had been filed without there being any reasonable cause. Even the landlady had stepped into witness-box and after that five witnesses had appeared, but the applicant had not opted for recalling of the said witnesses. The landlady had been examined at length and no good reason had been given why he had not exhausted his questions earlier at the time of oral cross-examination and purpose was of malafide intention to delay the proceedings. Resultantly reliance was placed upon the judgment passed in ***'Bhupinder Kumar and another Vs. Ajay Pal Goyal and another' (P&H) 2012 (1) PLR 717.***

The reasoning given by the Rent Controller has been challenged by the counsel for the petitioner on the ground that the interrogatories can be moved at any stage and, therefore, the order was not justified. Material information was being suppressed by the landlady and, therefore, to get the relevant information, the application had been filed. Thus, the order was liable to be set aside and the application be allowed.

A perusal of the interrogatories which are sought to be served upon and answered read as under:-

“Interrogatories to be answered by the petitioner by way of affidavit.

1. Whether the petitioner is married or not.

If yes then the date and place of marriage and address of matrimonial house.

2. Whether the petitioner is partner/proprietor/share

holder/having business interest of any kind in the following firms/company.

A. In Bloom subsidy of Euro Denim Ltd.

B. Euro Denim Ltd.

C. Haryana Forest Ltd.

D. Any other firm/company/proprietorship

3. Details of the service/rendered by the petitioner to various employers from the date of filing of the petition till date.”

The application which accompanied the said interrogatories were filed on 20.11.2015 was that the landlady was and not living in the local area of Kalka and that the tenant was not in a position to know certain facts which are only with the knowledge of the said landlady.

The application had been opposed on the ground that the tenant had not opted to inquire such interrogatories from the landlady during the course of evidence/cross-examination. The application had been filed with the sole intention to delay the proceedings which were pending since the year 2011. The burden of proof was sought to be shifted upon the landlady and the petition had been filed on the ground of non-payment of rent, sub-letting and on the ground of personal necessity and same had no bearing on the merits of the present case. The landlady was the owner of the property in question and the issues regarding the marriage or the past experience was not the criteria for decision of the eviction petition.

A perusal of the rent petition also attached alongwith the paper-book would go on to show that eviction was sought for the premises in question on the grounds that the rent had not been paid and a

part of the shop had been sub-let to one Ved Parkash and Sons-respondent No.2 by partitioning the shop and by putting partitioning wall and thus material alteration had been made. The premises were required for bonafide personal requirement of the landlady who want to start her independent business of Departmental Store and she was not occupying any commercial property in the urban area of Kalka. The grounds for eviction thus are statutory grounds which are provided under The Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short 'the Act') on the basis of which the respondent had locus-standi as such to pursue the eviction petition.

It is pertinent to mention that the affidavit of the landlady was filed on 23.05.2013. She was cross-examined in detail on 06.09.2013 and, thereafter, recalled for further cross-examination on 21.11.2013 and on 30.01.2014. The place of her residence and where she has done her education and where she was residing and her parentage all were elucidated in the cross-examination and the factum that whether she was one of the two daughters of her father having no brother.

It was open to the petitioner's counsel at that point of time to put to her whether she was married or not and if so at which place. The factum that whether she was partner in any of the four industries could have also been put to her at that point of time, the information of which now has been sought by way of serving of interrogatories. In her cross-examination she deposed regarding having worked as a Manager in

Times of India and worked as a Manager in Indian School of Business, Mohali Campus. She had also given the details of her salaries at both the places.

Under Section 30 of the Code of Civil Procedure, 1908 (for short 'CPC') the Court has the power to make such orders which may be necessary or reasonable in all matters regarding the delivery and the answering of interrogatories alongwith the power provided under Order 11 rule 1 of the CPC. However, this has to be done in a judicious manner and it is not to be in roving/fishing inquiry which can be made in respect of matters which are not relevant for the purpose of the proceedings. The Court has to keep these principles into mind. The purpose of serving the interrogatories have to be clear and valid and relate to litigation and to shorten the same and not prolong the life of the same which has now sought to be done in the present case. Reliance was well placed upon the judgment of ***Bhupinder Kumar (supra)*** and was well justified that the request of delivering interrogatories can be made at any point of time but not where there is lack of bonafide.

As discussed above the proceedings in question are for eviction under various grounds under the Rent Act including ground of personal necessity and this Court has examined the said detailed cross-examination conducted. By allowing the interrogatories, further delay will be caused in the proceedings which seems to be sole purpose of the present petitioners.

Resultantly, the Rent Controller was well justified in the facts and circumstances of the present case to dismiss the application and, accordingly, the present revision petition is dismissed as there is no material irregularity in the order impugned.

FEBRUARY 20, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>