

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.643 of 2017

Date of decision: 17.05.2017

Inderjit Singh

....Petitioner

Versus

T.R.Sachdeva & another

...Respondents

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

Present: Mr.Abhinav Gupta, Advocate, for the petitioner.

Mr.Rajiv Joshi, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present revision petition, by the tenant-petitioner, is to the order dated 18.11.2016, whereby the Rent Controller had noticed that 2 effective opportunities had to be given for leading the evidence after the cross-examination of the petitioner-RW1, as per the order of this Court. The cross-examination having been conducted on the said day, it was held that it was the second and the last opportunity for the respondent witnesses and thereafter, the case was fixed for rebuttal evidence.

Counsel for the petitioner has submitted that the right to lead evidence has been restricted only on account of the landlord's conduct himself which had been noticed in the order passed by this Court on 31.01.2017. The said order reads as under:

“Inter-alia submits that on an earlier occasion vide order dated 31.3.2016 (Annexure P/4), this Court had directed that the respondent-landlord would be cross-examined and the Rent Controller would thereafter give two effective opportunities to the petitioner to lead evidence if he may want to. This relief was granted on account of the fact that the petitioner had voluntarily closed his evidence on account of the fact that the landlord had not been cross-examined. It is submitted that

thereafter various opportunities were taken by the landlord for appearing for the purpose of cross-examination. Thereafter the cross-examination of the tenant was conducted on 18.11.2016 and the evidence was accordingly closed keeping in view the earlier order passed by this Court. It is submitted that the dispute pertains to the building being unfit and unsafe and therefore, report of the Building Expert would be necessary and the expert is to be examined. Reliance has been placed upon Annexure P/6. It is submitted that adequate opportunity was thus required to be given to examine the building expert.

Notice of motion for 1.3.2017.

Dasti.

In the meantime, final order shall not be passed by the Rent Controller, Jalandhar. However, it is made clear that if the service upon respondents is not effected, the interim order shall stand vacated.”

Accordingly, it is contended by counsel for the petitioner that in view of the above, since eviction was being sought regarding the building being unsafe and unfit, therefore, to defend the said ground, reliance upon the building expert to be produced by the tenant was also necessary and thus, the Rent Controller was not justified in strictly adhering to the terms of the orders passed by this Court in CR-2270-2016, between the parties.

The fact remains that it was the respondent who had earlier closed his evidence voluntarily, which was subsequently sought to be remedied by holding that it was inadvertently done. It was on that account that the petitioner-tenant had also challenged the permission granted, since he would be adversely affected. The benefit was granted to

the respondent-landlord, as such and in such circumstances, it would be unfair not to grant an equal opportunity, as such, to the tenant, to lead evidence.

Accordingly, the present revision petition is allowed and the impugned order dated 18.11.2016, passed by the Rent Controller, Jalandhar, is set aside. The petitioner will be given two more effective opportunities to lead his evidence, subject to payment of costs of Rs.10,000/-, to be paid to the respondent.

17.05.2017

Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*