

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

Sr. No.104

C.R. No.7161 of 2017 (O&M)

Date of decision: 07.11.2017

Vikas Bhargava

....Petitioner

versus

Joginder Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjay Vij, Advocate
for the petitioner.

Mr. Amit Jain, Advocate
for respondent No.1.

* * * *

DEEPAK SIBAL, J. (Oral)

Respondent No.1 had filed an eviction petition seeking therein the ejection of the petitioner from the tenanted premises. A total of 11 witnesses were cited by the petitioner-tenant, out of which 10 had already been examined. In the case of the last witness namely Sonu Mishra, who is an employee of a private bank, there was some delay on the part of the witness to bring the complete record. The Rent Controller, Gurugram, being of the opinion that adequate opportunities had been granted to the aforesaid Sonu Mishra for completion of his testimony and he being the last of the petitioner's witness, through order dated 28.09.2017, which is impugned in the present petition, ordered the closer of the petitioner's evidence.

On October 13, 2017, when the petition had initially come up for hearing before this Court, learned counsel appearing on behalf of the petitioner had stated that the Rent Controller, Gurugram, erred in directing the closer of the petitioner's evidence as there was no delay on the part of

the petitioner in leading his evidence. Out of the 11 witnesses to be examined by him, he had already examined 10 of them and the last witness namely Sonu Mishra who was an employee of a private bank, had caused some delay to bring the required record. Such delay on the part of the witness to produce the record was beyond the control of the petitioner and therefore, he should not be put to prejudice on that account. He prayed that the petitioner, at his own risk and responsibility, be granted one effective opportunity to complete his entire evidence and for that he also consented to compensate respondent No.1 through payment of costs.

Mr. Jain, who appears on behalf of respondent No.1 submits that he has express instructions from his client to the effect that he has no objection if the petitioner, subject to payment of costs, is granted only one effective opportunity, at his own risk and responsibility, to complete his entire evidence.

After considering the above submissions made by both the parties, after setting aside the impugned order, I consider it just and appropriate that the petitioner be granted, subject to payment of ₹10,000/- as costs, one effective opportunity to complete his entire evidence. Such opportunity be availed of on the next date of hearing before the Rent Controller, Gurugram, which is stated to be 16.11.2017.

The petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

November 07, 2017

Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No