

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 720 of 2017 (O&M)

Date of decision: 28.04.2017

Sunny Chugh

... Petitioner

versus

Santosh Rani

.... Respondent

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

Present: Mr. Naveen Bawa, Advocate for the petitioner.

Mr. L.S. Sidhu, Advocate for the respondent.

G.S. SANDHAWALIA, J. (ORAL)

The challenge under Article 227 of the Constitution of India is to the order dated 23.11.2016 by the petitioner-tenant whereby Rent controller Ludhiana has dismissed the application filed seeking permission for cross-examination. The reason given by the court is that seven effective opportunities had been given to the petitioner-tenant to produce his evidence but the tenant had failed to conclude the evidence despite the last opportunity given to him. It was held that on 18.10.2016 he was not present neither there was any request for cross-examination and his counsel had himself closed the evidence and therefore, no ground was made out for allowing the application of cross-examination.

Counsel for the petitioner has submitted that it is not disputed that the petitioner-tenant had tendered his evidence by way of affidavit on 21.10.2016 and the case was fixed for cross-examination on 26.10.2016. However, counsel inadvertently closed the evidence on

behalf of the tenant without noticing that the cross-examination is not complete. The application was immediately filed on 09.11.2016 that the same had been inadvertently closed, which has now been dismissed.

The ejectment was sought on the ground of non-payment of rent and personal necessity. The petitioner being the tenant himself would be heavily prejudiced in case his evidence is not taken into consideration and it is necessary for him to defend his case by getting his evidence on record. This Court is of the view that on account of mistake of the counsel, the party cannot be prejudiced by not allowing him to defend his case. In such circumstances, the other side could have been adequately compensated for the delay caused. The petition is allowed and the impugned order dated 23.11.2016 is set aside and the petitioner shall present himself for the purpose of cross-examination and an effective opportunity will be given by the court subject to deposit of ₹ 5,000/- as costs.

The revision petition is accordingly allowed.

(G.S. SANDHAWALIA)
JUDGE

28.04.2017

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Whether speaking/non-speaking: Yes/No
Whether reportable : Yes/No