

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

C.R. No. 760 of 2017 (O & M)

Date of decision: 22.05.2017

Kishan Gopal

....Petitioner(s)

Versus

Prem Lata Devi

...Respondent(s)

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

Present: Mr. J.P. Sharma, Advocate,
for the petitioner.

Mr. Munish Gupta, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The petitioner is aggrieved against his request being declined to prove the photocopy of the compromise and complaint dated 23.11.2015 and 22.04.2014 by way of secondary evidence. It is his case that in another set of litigation inter se the parties who are landlord-tenant, similar permission has been granted by another Court on 04.11.2016 in a petition filed under Section 12 of the Haryana Control of Rent and Eviction Act, 1973 (in short 'the Act') and permission had been granted to lead secondary evidence.

Counsel for the respondent, on the other hand, submits that in the other case, the testimony of AW-2 had come on record, who was ASI Devinder Kumar and who had confirmed the fact that the record of 2005 had been destroyed. Reference is made to the statement of AW-2 Devinder Kumar dated 15.10.2015 (Annexure P-5).

Counsel has pointed out that no such witness in the present case

has been examined by the tenant, the petitioner herein, and only thereafter the application under Section 65 of The Evidence Act, 1872 would lie. He submits that vide the impugned order dated 13.01.2017 (Annexure P-2), liberty has been granted to lead evidence in accordance with law and also to produce documents in support of his contention.

Resultantly, this Court is of the opinion that the order passed as such does not deserve to be interfered with and is well justified in view of the fact that nothing has been brought on record that the said documents have been lost in the present case.

Accordingly, the present revision petition is disposed of as per the said liberty as granted by the Rent Controller. It is made clear that the order passed as such would not stand in the way of the present petitioner-tenant in any subsequent application filed. The District and Sessions Judge, Narnaul at Mohindergarh is further directed to assign both the petitions to a common Rent Controller as it is inter se between the same parties so that there is no contradiction in the findings arrived at and it would lead to better case management.

22.05.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No