

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.7945 of 2017 (O&M)

Date of decision: 14.11.2017

Jai Parkash

....Petitioner

V/S

Ashok Kumar Sawhney

.....Respondent

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present : Mr. Mukesh Rao, Advocate for the petitioner.

B.S WALIA. J (Oral)

1. Challenge in this Revision petition is to order dated 11.10.2017 passed by the learned Rent Controller, Chandigarh, whereby the application filed by the tenant petitioner (hereinafter referred to as the tenant) for directions to the landlord-respondent (hereinafter referred to as the respondent) to produce the complete correspondence that had taken place between him and the Radha Soami Satsang Beas was dismissed by the learned Rent Controller by dispensing with filing of reply to the application and by directing counsel for the petitioner to argue on the application.

2. Brief facts of the case leading to the filing of the present petition are that the petitioner is a tenant on the 1st Floor of House No.3158, Sector 37-D, Chandigarh, owned by the respondent. The respondent had filed a petition for ejectment of the petitioner on ground of personal necessity by pleading that he was a staunch follower of Radha Soami Satsang Beas and had decided to gift the entire demised premises to Radha Soami Satsang Beas, but eventually due to deterioration of health in November, 2015 on account of of his suffering from brain cancer, the respondent changed his mind to gift the house in question to the Radha Soami Satsang Beas and wrote a letter to the Radha Soami Satsang Beas whereupon the title deeds of the house in question were returned by the Radha Soami Satsang Beas to him along with a letter that the Radha Soami Satsang Beas, had no claim over the house in question.

3. The petitioner moved an application under Order 11 Rule 14 of the CPC seeking directions from the learned Rent Controller to the respondent to produce the complete correspondence between the respondent and the Radha Soami Satsang, Beas regarding gifting of the demised premises. Pleadings in paragraph Nos.4 and 5 of the petition are reproduced as under:

“4. That the petitioner is staunch follower of tenets and teachings of Radha Soami Satsang Beas. The petitioner has been deeply devoted to Radha Soami Satsang Beas for the last more than 20 years and in the month of May 2014, the petitioner had decided to gift the entire House No.3158, Sector 37-D, Chandigarh to Radha Soami Satsang Beas and the petitioner wrote a letter to this effect to Radha Soami Satsang Beas and thereafter correspondence was exchanged regarding gifting the said house between the petitioner to Radha Soami Satsang Beas.

5. That unfortunately, in November 2015, the health of the petitioner deteriorated significantly and after thorough examination, brain cancer (CNS Lymphoma) was detected to the petitioner first time in the month of November 2015 and the petitioner remained under treatment of PGI, Chandigarh and thereafter to Fortis Hospital, Mohali. Nowadays also, the petitioner is under the treatment of PGI, Chandigarh and Fortis Hospital, Mohali for his ailment and the circumstances of the life of the petitioner have totally changed on account of his illness as mentioned above. Thereafter, considering the detection of serious ailment i.e brain cancer, the petitioner changed his mind to gift the House No.3158, Sector 37-D, Chandigarh to Radha Soami Satsang Beas in the month of December 2015 and the petitioner wrote a letter to this effect to Radha Soami Satsang Beas on 29.12.2015 and ultimately in the month of July 2016 the Radha Soami Satsang Beas has written a letter to the petitioner that they have no claim over the said House No.3158, Sector 37-D, Chandigarh and they have already returned the title deeds of the house to the petitioner in the month of December 2015.”

4. The aforesaid application was moved to negate the plea of personal necessity in view of the respondent having taken up stand in paragraph Nos.4 and 5 of the eviction petition of his having gifted the house to the Radha Soami Satsang Beas, consequentially, he not being owner of the premises in question, therefore, no ground of personal necessity being available to him.

5. Learned counsel contended that the impugned order was legally unsustainable as it was settled law that a person in possession of the documents was bound to produce the same with the plaint/petition and further that the respondent was bound to produce the same on the asking of the petitioner for the perusal of the Court either at the time of filing of the plaint or at least before settlement of issues but the same had not been done and that in case the documents were not summoned, the witnesses could not be confronted with the same and if the said documents were brought on record, later, then the same could not be read in evidence in the case, that it was settled law that only the owner of the premises could file an eviction petition for bonafide necessity and the documents were necessary to show that the respondent had gifted the property to the Radha Soami Satsang Beas, therefore, had ceased to be owner of the property, thus the eviction petition was not maintainable, that without

issuing notice, the learned Rent Controller on his own had observed that the documents sought to be produced for cross-examination were disputed and the onus to prove ownership of the demised premises was on the respondent and that the petitioner had nothing to do in respect thereto, that in any case, no prejudice would be caused to the respondent in case he had not gifted the demised premises and was still owner of the demised premises. In the light of the aforementioned submissions, it was contended that the documents in question were material for the petitioner to establish his case by confronting the witnesses of the respondent.

6. The learned Rent Controller observed that perusal of the pleadings revealed that there was only correspondence qua gifting of the demised premises and it was not the stand of the respondent that the demised premises had been gifted by him in favour of the Radha Soami Satsang, Beas. In the aforementioned background, the learned Rent Controller observed that the petitioner had sought production of documents whose existence was disputed by the respondent and further that the correspondence between the respondent and the Radha Soami Satsang, Beas, was of no relevance as the onus was upon the respondent to prove that he was the owner of the demised premises. In the aforementioned background, the learned Rent Controller, held that the documents sought

by the petitioner were of no relevance, accordingly, dismissed the application.

7. I have considered the submissions of learned counsel.

8. Order 11 Rule 14 of the CPC reads as under :

“Production of documents- It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.”

9. A perusal of Order 11 Rule 14 CPC reveals that the Court can at any stage of the proceedings, order the production of any such document as is in the possession of or power of a party as the Court shall think right. The main plea of the petitioner is that the petition for eviction as filed by the respondent on account of his personal necessity was not maintainable in view of his ceasing to be the owner of the premises in question on account of gift having been made by him of the property in question to the Radha Soami Satsang Beas, therefore, the plea for eviction on account of personal necessity not being maintainable. A perusal of paragraph Nos.4 and 5 of the petition reveals that the respondent had taken a decision in the month of May, 2014 to gift House No.3158, Sector 37-D, Chandigarh to

Radha Soami Satsang Beas and had also written a letter to the Radha Soami Satsang Beas in respect thereto but due to changed circumstances, i.e. detection in the month of November, 2015 of his suffering from brain cancer and the requirement to undergo treatment at the PGI, Chandigarh as well as Fortis Hospital, Mohali, the respondent had changed his mind to gift House No.3158, Sector 37-D, Chandigarh to the Radha Soami Satsang Beas in the month of December, 2015 and had got back the papers as well as the title deeds from the Radha Soami Satsang Beas and ultimately, in the month of July 2016, the Radha Soami Satsang Beas had written a letter to him that it had no claim over House No.3158, Sector 37-D, Chandigarh and of their already having returned the title deeds of the house to the respondent-landlord in the month of December, 2015. The respondent filed the petition on 10.10.2016 seeking eviction of the petitioner from the demised premises. Besides, perusal of pleadings in the eviction petition reveal that the same contains reference only qua gifting of the demised premises and not that the demised premises had been gifted by the respondent to the Radha Soami Satsang, Beas. Thus the documents, production of which was sought cannot be said to be in existence. Besides, the correspondence between the respondent and the Radha Soami Satsang, Beas, is irrelevant as the onus to prove ownership

of the demised premises is upon the respondent. Accordingly, the application under Order 11 Rule 14 of the CPC is of no relevance. Consequently, finding no merit in the revision petition, the same is dismissed in limine.

10. No order as to costs.

November 14, 2017

ps

**(B.S. WALIA)
JUDGE**

Whether speaking/reasoned

: Yes/No.

Whether reportable

: Yes/No.