

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

**Civil Revision No.8446 of 2016**

**Date of decision: 23.02.2017**

Gagandeep Singh

**...Petitioner**

**Versus**

Smt. Suman

**...Respondent**

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

Present: Mr. Mohit Jaggi, Advocate for the petitioner.

Mr. K.K.Saini, Advocate for the respondent.

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**G.S.SANDHAWALIA, J. (Oral)**

The present revision petition filed by the landlord is directed against the order dated 25.11.2016 (Annexure P/18) whereby the Rent Controller, SAS Nagar closed the evidence of the petitioner-landlord by order.

The ground for taking drastic step by the Court was that on earlier occasion during the day the landlord was present and the evidence had been ordered to be recorded by the empanelled local commissioner. The file was to be produced before the said Local Commissioner. During subsequent proceedings it was noticed by the Court that as per report received from the Local Commissioner that the landlord had not put in appearance for his cross-examination. Resultantly, the drastic step was taken and the case was fixed for the witnesses of the tenant.

Counsel for the petitioner vehemently argued that the ejectment sought is on the ground of non payment of rent; the respondent-tenant is lady of quarrelsome nature; on the ground of bonafide requirement apart from the fact that premises have been damaged. It is further submitted that

the other side can be duly compensated by payment of costs on account of non appearance of the landlord for cross-examination. It is his case that on the earlier part of the day, his presence had been recorded by the Rent Controller, SAS Nagar and due to communication gap his presence could not be made before the Court Commissioner.

Counsel for the respondent on the other hand has vehemently opposed the revision petition and submits that there is no ground to allow the revision petition. It is further submitted that various zimini orders have been concealed and not brought on record and therefore, the landlord is not entitled for the concession of being cross-examined as a witness.

A perusal of the all zimini orders would go on to show that on 1.7.2016, the amended reply had been filed by the tenant and the case was adjourned to 1.8.2016 for the evidence. On the said date, case was adjourned to 24.8.2016 subject to last opportunity since the witnesses of the landlord were not present. Similar was the position on 24.8.2016. Thereafter, on 27.9.2016, the final opportunity was given subject to payment of costs of ₹ 500/-. The same were paid on 13.10.2016 and the case was adjourned to 16.11.2016 on which date the medical certificate of the petitioner-landlord was filed and the case was adjourned to 25.11.2016. Last opportunity was given for cross-examination of the landlord.

A perusal of the zimini orders would go on to show that sufficient indulgence was granted by the Rent Controller, SAS Nagar to the petitioner/landlord. However, it is not a matter of dispute that he was present on 25.11.2016 in Court when it was directed that his cross-examination be conducted by the Local Commissioner. This Court cannot lose sight of the fact that drastic step as such which had been taken would

entail the dismissal of the ejectment application itself. The landlord might have been negligent as such in prosecuting his case and had been obviously very casual and sufficient indulgence had been granted but the fact remains that rules of procedure are handmaids of justice which still weighs with this Court to grant another opportunity as such to the landlord to be given an opportunity to appear for cross-examination.

Accordingly, order dated 25.11.2016 (Annexure P/18) is set aside subject to payment of ₹ 7500/- as costs which will be paid to the respondent-tenant for harassment which had been caused to her and for the expenses which she had incurred to defend this litigation per force.

It is stated that now the case is fixed for 28.2.2017 before the Rent Controller, SAS Nagar. Accordingly, on the said date, the Rent Controller, SAS Nagar shall fix a particular date for appearance of the landlord and he will be duly cross-examined. In view of the above facts, it would be appropriate if his cross-examination would be recorded in Court itself. No other opportunity will be given for the said purpose provided the Court itself does not adjourn the proceedings.

With the aforesaid observations, the present revision petition is allowed.

**February 23, 2017**  
**Pka**

**(G.S.SANDHAWALIA)**  
**Judge**

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No