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

**Civil Misc. No.3647-CII of 2017 in/and
Civil Revision No.819 of 2017
Date of decision: 20.2.2017**

Brij Mohan

...Petitioner

Versus

Som Chand and another

...Respondents

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

Present: Mr. Kashish Garg, Advocate for the petitioner

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.3647-CII of 2017

Prayer made in the present Civil Misc. Application for placing on record Annexures P/4 to Annexures P/7 is allowed.

Annexures P/4 to P/7 are taken on record.

Office to tag the same at appropriate place in the file.

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.819 of 2017

The present revision petition is directed against the order dated 2.12.2016 (Annexure P/3) whereby the application of the petitioner-tenant for direction to produce the record mentioned in the application for the purpose of cross- examination of respondents-landlords had been dismissed.

The reasoning given by the Rent Controller, Bathinda is that for production of documents, the Court had to apply its mind and to reach a conclusion that documents were relevant for determination of the

controversy in the suit. The order had not to be passed in a routine and casual manner.

The ejectment sought from the premises in question by the respondents-landlords is on the ground that premises was rented out on 7.1.1989 and the same were required on the ground of bonafide personal necessity of the applicant no.2 Raj Kumar who wanted to expand his business and amalgamate the premises after removing the intervening wall of two shops. The specific averment was made that he neither owned nor occupied any other commercial/non-residential building nor had vacated any such building in urban area of Bathinda and details were given that he was also owner of one half share of building bearing MC No.4711, situated in Hospital Bazar, Bathinda etc.

The application was contested by filing the reply and the plea was taken that the requirement was not bonafide and genuine. The building in which Raj Kumar was doing business of M/s Bansal Collection was sufficient to expand his business as this was a very big shop.

The following issues were framed after replication had been filed on 23.9.2015:-

- “1. Whether the application is entitled to application U/s 13 of the East Punjab Urban Rent Restriction Act, 1949 as prayed for?OPA
2. Whether the application is not maintainable in the present form?OPR
3. Whether the applicant has not come to the Court with clean hands?OPR
4. Whether the application is totally false, frivolous and vexatious to the knowledge of the applicants?OPR
6. Relief”

Pardeep Kumar
2017.03.01 10:18
I attest to the accuracy and integrity
of this document
Punjab and Haryana High Court,
Chandigarh

Thereafter, an application for production of documents was filed on 9.5.2016 (Annexure P/1) when the case was fixed for purpose of cross-examination of the landlords. Apart from the original title deeds of the properties of the landlords, title deeds of the wife and son for the last 10 years was also asked for. Record of the security deposit, demand notice, electricity bills, receipts of electricity connection installed at upper portion of the building, record of water & sewerage connection, construction record of building, sanction sought from Archeological Survey Department of India and Municipal Corporation, Bathinda were also sought. Sales tax, income tax returns of the concerned firms, sales tax licence, ration card, voter I card and Adhar Card etc. were also sought so that cross examination of the landlords could be effectively done.

In reply the plea taken was that they were all irrelevant especially title deeds of the relatives. The onus was upon the tenant to discharge that the landlords was not coming with clean hands and once the tenancy had been admitted, the requests for seeking documents as such were totally irrelevant, unfair and unjust. The landlords in spite of that also disclosed the title deeds regarding Som Chand, applicant no.1 and their shares and gave the details as to how the property is required. Similarly details of property of Raj Kumar, applicant no.2 and of Anguri Devi wife of Som Chand and Goldy son of Davinder Nath were also given. Regarding Goldy it was averred that neither he was a party in the case nor he was a family member. It is submitted that record regarding security deposit, demand notice etc. could be summoned from the Electricity Department

whereas copy of electricity bill was enclosed. The demand for production of the sanction from the Municipal Corporation and from the Archeological Survey Department of India were rebutted by saying that these were totally irrelevant.

A perusal of the above said application would go on to show that the tenant wanted to make fishing enquiry as such and wanted to ask irrelevant documents from the landlords. The issues have already been framed. The sole question which is arising in the eviction petition is as to whether the tenant is liable to be evicted on the ground which were set forth in the ejectment application. None of these documents have any relevance as to whether the eviction application is maintainable or not and whether the documents in question were required by the Court for the adjudicating upon the issue of eviction. The Rent Controller was well justified in placing reliance upon the judgment of **The Tata Iron and Steel Co. Ltd. and others Vs. Prop. Ajit Cotton Ginning Pressing Dall & Steel Rolling Mills** 2013(1) R.C.R. (Civil) 506 wherein the defence of the plaintiff was struck off on the ground that they had not produced the relevant documents. Resultantly, in view of the provisions of Order 11 Rule 14 of the Code of Civil Procedure, 1908, it has been held that the trial Court could not have passed such order on account of non production of the documents. It was held that the Court has to see what is relevant for determination of the controversy in the suit and in the absence of any finding recorded, the order was not liable to be passed. The relevant part reads as under:-

“13. To the contrary, Rule 14 is a general rule for providing power to the Court to direct a party to produce the

documents in its possession or power relating to any matter in question in such suit. It implies that at the time of directing the parties to produce such documents, the Court has to make out; (i) if such documents relates to the matter into controversy in the suit or not, (ii) the document(s) if produced would assist the Court in the administration of justice, (iii) save costs. In other words, this Rule also refers that after the pleadings are completed, then the Court would find out, as to whether the documents sought by the party are relevant to the questions involved into controversy or not. After satisfying itself about the relevancy, relativity or essentiality of production of such documents, the Court could direct the other party to produce the same. In any case, the words 'at any time during the pendency of the suit' could be stretched to direct a party to produce certain documents in its possession or power, but the mandatory condition precedent to be specified for production of the document is that it must be relevant and relate to the lis that suit.”

In the present case also as noticed the dispute as such is only regarding issue of eviction and the documents like sale tax returns of the business of the landlords etc. which have been sought for from the landlords are irrelevant. The said request of the tenant had thus been rightly rejected by the Rent Controller, Bathinda. Keeping in view the fact that cross-examination of the landlords as such is taking place, the plea of the tenant that documents are required cannot be used as a tool to create evidence. It is always open to the tenant to summon necessary documents from the concerned department when he is leading evidence.

In such circumstances, order dated 2.12.2016 (Annexure P/3) passed by the Rent Controller, Bathinda does not suffer from any infirmity and illegality which would warrant interference in exercise of revisional

jurisdiction of this Court.

Accordingly, the present revision petition is dismissed in
limine.

February 20, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No