

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

Civil Revision No.1244 of 2018 (O&M)

Date of Decision: May 15, 2018

Anita Sharma

...Petitioner

Versus

Simmi

...Respondent

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.V.K.Sandhir, Advocate for
the petitioner.

HARINDER SINGH SIDHU, J.

The petitioner has filed this revision petition impugning the order dated 7.2.2018 of the Ld. Rent Controller, Amritsar whereby her application for taking off the record documents Ex.A1 to Ex.A4 filed along with the affidavit Ex. AW1/A of respondent has been disposed of.

The respondent-landlady filed an eviction petition, seeking eviction of the petitioner. The petitioner filed an application dated 27.7.2000 claiming that though the respondent had relied on various documents, namely a rent note, Will, etc. in the ejectment petition, however, the same had not been placed on record. It was prayed that she be directed to place on record the original documents referred to in the ejectment petition. The respondent filed a reply to the aforesaid application stating that it has nowhere been pleaded in the petition that there was a rent note as there was an oral tenancy. The mutation order in favour of the respondent

had already been filed.

The Rent Controller disposed of this application vide order dated 1.9.2017 by recording that the respondent – landlady had specifically mentioned that the tenancy was oral one, so there was no question of production of rent note along with the petition. As regards the Will, it was noted that the mutation with regard to the same, had been placed on record, which was to the notice of the petitioner - tenant. It was specifically ordered that no document from the side of the respondent -landlady would be considered by the court if the same were produced without the leave of the court as contemplated under Order 7 Rule 14(3) CPC.

Relying on the aforesaid order the petitioner filed application dated 5.2.2018 for taking off the record documents Ex.A1 to A4 filed along with the affidavit Ex.AW1/A of the respondent claiming that the same had been filed without obtaining the leave of the court to produce them in evidence. This application was disposed of by the order dated 7.2.2018 of the Rent Controller, which has been impugned in the present petition.

In the impugned order, the Ld. Rent Controller has referred to each of the documents, objected to. He has noted that the Will Ex.A2 executed by Harbans Singh is not to be taken into consideration until the document is placed on record with the permission of the Court. The mutation Ex.A4 was ordered to be kept intact as the same had already been placed on record as noted in the order dated 1.9.2017. The Will Ex.A3 was ordered to be kept intact as it found mention in the Jamabandi, which had already been placed on record. The objection regarding taking of

Ex.AW1/A was rejected as it was the affidavit of the petitioner. It was

specifically observed that a mere mention of the documents which have been placed on record without taking permission of the Court, would be “*subject to the spirit of this order*”.

Ld. Counsel for the petitioner has only contended that it had already been observed in the order dated 1.9.2017 that no document which was not already on record, would be considered by the Court unless the same was produced with the leave of the court. The mention of the words “*subject to the spirit of this order*” had introduced ambiguity and diluted the earlier order and the documents would be considered even without the leave of the Court.

The apprehension of the Ld. Counsel appears to be misplaced. Though the Court has used the expression “*subject to the spirit of this order*” but, evidently, it appears that the Ld. Rent Controller only intended to convey that though certain documents find mention in the documents which have been placed on record but permission for placing such documents on record has not been taken, the documents so mentioned would not be taken into consideration without the permission of the Court.

Accordingly, this petition is disposed of .

May 15, 2018

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No