

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4208 of 2018 (O&M)
Date of Order:05.07.2018

Nirmal Dass

..Petitioner

Versus

Charanjit Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sumit Jain, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

Tenant-petitioner is trying to delay the decision in the eviction proceedings filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949.

The learned Rent Controller has noticed the conduct of the petitioner, which reads as under:-

“5. The present application also does not deserve to be allowed due to the conduct of the respondent throughout the case, where he has tried to delay the proceedings of the case on one or the other ground. Respondent appeared in the present case for the first time on 13.04.2015 and on the next date i.e. 06.05.2015, he engaged new counsel, who moved application seeking directions to the petitioner to supply the documents. When the case was fixed for filing reply to the said application on 05.08.2015, none appeared on behalf of the respondent and he was proceeded against ex-parte. Thereafter, he moved application for setting aside ex-parte order, which was allowed on 04.01.2016.

Thereafter, on 03.03.2016, issues were framed and case was fixed for petitioner's evidence. Then the case remained pending for petitioner's evidence till 04.05.2017 and on said date, counsel for the petitioner closed the same and case was fixed for respondent's evidence for 22.05.2017. Then, respondent examined only single witness after availing seven effective opportunities for the same. On 07.11.2017, an application for permission to examine handwriting expert was filed by the respondent, which was allowed vide order dated 30.11.2017 and on said date, first application for issuance of direction to petitioner to produce her passport was filed. Then the case was adjourned for 20.12.2017 for consideration on said application and for Rws but on said date, respondent again absented from the proceedings and was proceeded against exparte and case was fixed for exparte arguments for 15.01.2018 and then for 25.01.2018. On 25.01.2018, Sh. P.K.Malhotra, Advocate filed fresh power of attorney on behalf of the respondent and also moved application for setting aside the exparte order dated 20.12.2017, which was allowed on 17.02.2018 and vide said order, respondent was granted three effective opportunities to conclude his evidence after disposal of his application for issuance of direction to petitioner to produce her passport, which was pending. Said application was disposed of on 21.02.2018. Thereafter, respondent availed all the three effective opportunities granted vide order dated 17.02.2018 but when he failed to conclude the evidence after having availed 11 effective opportunities over-all, same was closed by order on 23.04.2018. On said date, respondent moved another application for making the reference of the case to learned District Judge, Ludhiana, for transfer of the case to the court of Sh. Pradeep Singh, learned Rent

Controller, Jagraon on the ground that connected civil suit is pending in that court, which was disposed off vide order dated 02.05.2018. Now, the respondent has come up with the present application. Thus, the conduct of the respondent is evident that during the proceedings, he was proceeded against ex-parte twice and moved various miscellaneous applications in order to delay the case. He is contending that the alleged rent note dated 18.05.2012 is forged and fictitious document not executed between the parties. In this regard, he even after seeking permission of the court to examine handwriting expert has failed to examine him despite being granted sufficient opportunities, instead he is coming up with one after another application.”

Through the present application, prayer was made for directing the landlord to produce copy of the passport/travelling documents. This was second application filed by the petitioner. Learned Rent Controller dismissed the application on the ground that the petitioner on the one hand is contending that there is no relationship of the landlord and tenant whereas in the civil suit filed by him he has admitted relationship of the landlord and tenant.

Keeping in view the aforesaid facts, this court does not feel that any interference is required in the order passed.

However, facts as noticed above, clearly depict that process of the court is being misused. Rent petition which is pending for more than 3½ years is being dragged by filing wholly unnecessary applications.

Keeping in view the aforesaid facts, learned Rent Controller is directed to decide the petition for eviction within three months from the date of receipt of a copy of this order.

The revision petition is dismissed.

Registry is directed to forward a copy of the order to the learned Rent Controller immediately.

July 05, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No