

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4780 of 2018 (O&M)
Date of decision:30.07.2018.

Ashwani Kumar

...Petitioner

Versus

Balvinder Singh

....Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

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

LISA GILL, J.

This petition has been filed for setting aside order dated 05.12.2017 passed by the learned Rent Controller, whereby defence of the petitioner has been struck off as well as order dated 31.05.2018 passed by the learned Rent Controller, whereby application filed by the petitioner to permit him to file written statement has been dismissed.

It is submitted that the petitioner upon receiving notice in the application under Section 13 of the East Punjab Urban Rent Restriction Act, of 1949 filed by respondent/landlord, appeared before the learned Rent Controller on 08.09.2017. The said petition has been filed for eviction of the petitioner from the residential house/plot No.28 min, 29 (salam) situated in area Tungpai, Gali Banke Behari, Chand Avenue, Batala Road, Tehsil and District Amritsar.

Learned counsel for the petitioner submits that doubtlessly opportunities were afforded to file his written statement but due to marriage of the petitioner's son, which was to be solemnized on 27.11.2017, written statement could not be filed on 05.12.2017. Learned Rent Controller vide order dated 05.12.2017 observed that no satisfactory explanation was

coming forth for not filing the written statement within the stipulated period and neither the cost imposed had been paid by the petitioner. Defence of the present petitioner (respondent/tenant) was accordingly struck off. The petitioner under specific though mistaken legal advice moved an application before the learned Rent Controller for allowing him to file the written statement. The said application was dismissed on 31.05.2018 while observing that reason given in the application is not believable and the petitioner failed to explain the unavoidable circumstances due to which he could not appear before the Court or file his written statement within the stipulation period.

Learned counsel for the petitioner vehemently argues that the petitioner specifically stated that it was due to solemnization of marriage of his son namely Prince Verma on 28.11.2017 that the written statement could not be filed on or before 05.12.2017. Wedding card of the petitioner's son's marriage was attached with the application. The petitioner, it is submitted, will suffer irreparable loss in case he is not permitted to file his written statement and lead evidence. It is informed that the matter is fixed before learned Rent Controller on 02.08.2018. It is submitted that petitioner shall file the written statement on 02.08.2018 itself i.e. the date fixed before learned Rent Controller in case he is afforded liberty. Petitioner further undertakes that he shall not delay the proceedings in any manner. It is submitted that the petitioner may be put to terms as well and this petition be allowed.

Heard learned counsel for the petitioner.

This petition is being disposed of without issuing notice to the respondent in order to obviate any further delay in the proceedings before the learned Rent Controller.

The petitioner appeared before the learned Rent Controller on 08.09.2017 on receipt of notice of the petition. Written statement was not filed till 05.12.2017 despite various opportunities, neither cost was deposited. Accordingly, the petitioner's defence was struck off. A perusal of the copy of the application filed by the petitioner thereafter seeking permission to file written statement as well as reply filed thereto by the respondent furnished in court today reveals that there is no denial of the factum of marriage of the petitioner's son on 27.11.2017. Though no opinion is being expressed on the maintainability of such an application it is apparent that irreparable loss shall indeed be caused to the petitioner in case he is not permitted to file the written statement. Keeping in view the peculiar facts and circumstances of the case, one opportunity is afforded to the petitioner to file written statement.

Orders dated 05.12.2017 and 31.05.2018 passed by learned Rent Controller are accordingly set aside. Petition is disposed of while affording one opportunity to the petitioner to file written statement before the learned Rent Controller on 02.08.2018 itself subject to deposit of Rs.30,000/- as costs to be paid to the respondent. It is made clear that in case written statement is not filed on 02.08.2018 or the costs not deposited, no further opportunity shall be afforded and impugned orders dated 05.12.2017 and 31.05.2018 shall automatically stand revived.

(LISA GILL)
JUDGE

July 30, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No