

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.5646 of 2018

Date of decision: September 25, 2018

Mohd. Ashgar

...Petitioner

Versus

Harish Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sherry K. Singla, Advocate for the petitioner.

Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 13.08.2018, passed by the trial court, whereby application for recalling AW-1 Rakesh Kumar, filed by the petitioner has been dismissed.

Learned counsel for the petitioner has assailed the order. According to him, trial court ought to have allowed the application for recalling the witness Rakesh Kumar, as he is marginal witness of the alleged Will executed by Gigi Devi and it was necessary to recall the witness for his further cross-examination.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, petitioner/respondent No.1 filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for eviction of the petitioner from the shop bearing No.B-XIII/734, situated at Telian Bazar, Malerkotla. During pendency of the application,

petitioner filed instant application for recalling AW-1 Rakesh Kumar for his further cross-examination regarding the alleged Will. After hearing counsel for both the parties, the trial court dismissed the application. Aggrieved, present revision petition has been filed before this court. According to counsel, trial court ought to have ordered to recall AW-1 as he was marginal witness of the alleged Will executed by Gigi Devi. I am not convinced with the plea. Rent petition was instituted on 05.09.2014. It appears, additional issue regarding the alleged Will dated 13.3.2010 was framed and petitioner had cross-examined AW-1 as attesting witness and his entire cross-examination was related to the alleged Will. I am of the considered view that instant application was filed just to delay the proceedings of the rent petition. No interference in revisional jurisdiction is called for.

Dismissed.

(RAJAN GUPTA)
JUDGE

September 25, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No