

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

CM-24457-CII-2018 in/and
CR-6341-2018 (O&M)
Date of Decision : 12.11.2018

Harbans Singh Saini

...Appellant

vs.

Megh Raj Sharma

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Dinesh Kumar Malhotra, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-24457-CII-2018

This is an application for early hearing of the main case.

For the reasons recorded in the application, the same is allowed
and the case is heard today itself.

Main Case

This petition has been filed against the dismissal of an application under Order 12 Rule 6 of the CPC. As per the learned counsel the landlord-respondent has filed petition for eviction on twin grounds i.e. non-payment of rent and personal necessity. After evidence of the landlord was over the instant application was filed in which it was pleaded that in their testimony both the landlord and his son had admitted that they had

received entire rent. It was further pleaded in the application that even as regard the personal necessity there was ample admission during the testimony that actually there was no personal necessity. In reply, the landlord had stated that as regard the issue of non-payment of rent he was ready to give up that ground, but he still maintained that he had led evidence which would justify the finding of personal necessity. It was in those circumstances that application was dismissed.

Learned counsel has argued that approach of the Rent Controller was wrong and he should have analyzed the testimony of the landlord and since there was an admission he should have dismissed the petition then and there. The argument is misconceived. An admission contemplated by Order 12 Rule 6 of the CPC would cover admission of facts but here what the petitioner wants to say is that in his understanding the testimony of the landlord contains an admission and as per the landlord, there is no such admission. Even otherwise the main issue in the case is whether the pleadings and the testimony of the landlord are enough to prove personal necessity. In my opinion, the opinion of the petitioner would be tested at the time of final argument of the case.

Learned counsel has then argued that even if application under Order 12 Rule 6 of the CPC had to be dismissed yet interpretation given to Order 12 Rule 4 and 5 CPC is completely misconceived. In my opinion, it would not necessary to go into this question at this stage.

I regret to show my inability to interfere with the decision of the Court below. The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

12.11.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No