

131

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

**Civil Revision No.6732 of 2018 (O&M)
Date of Decision: 11.10.2018**

Naresh Kumar

.....Petitioner

Vs

S. Jagjit Singh and Anr.

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ankit Chowdhary, Advocate
for the petitioner.

Mr. A.S. Salar, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J

[1]. Petitioner has challenged the order dated 10.08.2018 passed by the Appellate Authority, Chandigarh in an appeal under Section 15 of the East Punjab Urban Rent Restriction Act, 1949 titled '*Naresh Kumar vs. S. Jagjit Singh & Another*' filed against the order dated 05.12.2017 passed by the Rent Controller, Chandigarh.

[2]. Respondents filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act for eviction of the petitioner from ground floor of SCO No.1042, Sector 22-B,

Chandigarh. The said petition was allowed by the Rent Controller, Chandigarh vide order dated 05.12.2017 on the ground of non-payment of rent and personal necessity. Petitioner was ordered to be evicted from the demised premises i.e. ground floor and was given two months time to hand over the vacant possession of the premises to the respondents.

[3]. During trial of the aforesaid case, the petitioner was afforded reasonable opportunities to lead his evidence. Perusal of the record would show that evidence of the petitioner started w.e.f. 10.08.2017, when the evidence of the landlord was closed and the case was listed for evidence of the petitioner i.e. RWs before the Rent Controller. One witness i.e. Gurnoor Singh RW-1 was examined on 04.09.2017 and the case was adjourned to 14.09.2017. As no witness was present on 14.09.2017, at the request of the petitioner, the case was adjourned to 22.09.2017 for examination of remaining RWs (evidence of the petitioner). Similarly, no witness was present on 22.09.2017 and the case was adjourned to 06.10.2017 and then to 17.10.2017 with last opportunity. On 17.10.2017, no witness was present and it was observed by the Rent Controller that since the petitioner has already availed five effective opportunities and has failed to conclude his evidence, therefore, the Rent Controller proposed to close the evidence of the

petitioner, however with a clarification that in case the petitioner brings evidence till 12.00 noon on 31.10.2017, at his own responsibility subject to costs, the same will be entertained. On 31.10.2017, one more witness was examined and the petitioner through his counsel closed his evidence by making separate statement.

[4]. The aforesaid facts would show that after availing six effective opportunities, learned counsel for the petitioner made statement thereby closing of the evidence of the petitioner. The evidence of the petitioner was not closed by order of the Court. The order dated 31.10.2017 has not been assailed by the petitioner in any forum.

[5]. Even in the grounds before the lower Appellate Court, the order dated 31.10.2017 has not been assailed. Petitioner devised different mechanism to overcome the rigor of order dated 31.10.2017 by moving an application before the lower Appellate Court for permission to examine himself as a witness.

[6]. The aforesaid plea is taken on the ground that the earlier counsel did not inform the petitioner for his appearance in the witness box and the evidence was closed without his knowledge. The trial Court has noticed that the petitioner along with his son had been attending the Court on all the dates and the evidence of the petitioner was closed by his counsel after

availing six effective opportunities.

[7]. Since the order dated 31.10.2017 has attained finality and the same has not been challenged even in appeal, no indulgence was granted by the lower Appellate Court. I have also given my due consideration to the aforesaid plea and the same is found to be not worth acceptance.

[8]. Evidently, the petitioner has availed six effective opportunities including the last opportunity. On 17.10.2017, the trial Court even granted indulgence to the petitioner by bringing the rest of the evidence till 12.00 noon on 31.10.2017. In a way the last opportunity was relaxed on 17.10.2017 and the petitioner was allowed time upto 31.10.2017 to bring his entire evidence. Even the petitioner examined one more witness (RW-2) on 31.10.2017 and then made statement through his counsel for closing the evidence. The order closing evidence was not attributable to the Court, but the petitioner through his counsel voluntarily made the statement for closure of the evidence. The said order has attained finality. The order has not been assailed before the lower Appellate Court as well. Filing of application before the lower Appellate Court for examination of the petitioner in my considered opinion is a far fetched relief which cannot be legally granted to the petitioner, who has already been ordered to be evicted by the Rent Controller.

[9]. In view of aforesaid, this revision is found to be devoid of merits and the same is accordingly dismissed.

October 11, 2018

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No