

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

**C.R No. 7265 of 2018(O&M)
Date of decision :25.10.2018**

Satpal

..... Petitioner

Versus

Vijay Kumar

..... Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.D.K.Chaudhary, Advocate
for the petitioner.

LISA GILL,J

Petitioner is aggrieved of orders dated 20.03.2018 and 02.08.2018, passed by the learned Rent Controller, Ludhiana, whereby his defence has been struck off on the ground that the reply/written statement, was not filed despite opportunity and his application dated 30.03.2018 for recalling/review of order dated 20.03.2018, has been dismissed.

It is submitted that the present petitioner-tenant (respondent in the petition under Section 13 of the East Punjab Urban Rent Restriction Act) filed by the respondent-landlord, had appeared on 28.03.2016. Last opportunity was afforded to the present petitioner to file his reply on 30.01.2018 vide order dated 13.12.2017 passed by the

learned Rent Controller, Ludhiana. Reply could not be filed on 30.01.2018. The matter was adjourned to 23.02.2018 subject to last and final opportunity, failing which it was observed that the petitioner's defence will be struck off.

Learned counsel for the petitioner submits that the reply in this case was ready on 23.02.2018 but the presiding officer was on leave on the said date and the matter stood adjourned to 20.03.2018. However, lawyers suspended work from 20/21.03.2018, due to elections, which were to be held on 06.04.2018 in the District Bar Association, Ludhiana. Notice of the same was circulated on 19.03.2018. Petitioner's counsel noted that the matter was adjourned to 11.05.2018. However, later on it came to light that the learned Rent Controller, Ludhiana, vide order dated 20.03.2018 had directed that the defence of the respondent be struck off on account of non-filing of the written statement.

It is argued that the counsel for the petitioner had not appeared though his presence is marked. When this fact came to light, an application for recalling/review of order dated 20.03.2018 was immediately filed on 30.03.2018 after obtaining a certified copy of order dated 20.03.2018. This application was however, dismissed by the learned Rent Controller, Ludhiana, vide order dated 02.08.2018 (Annexure P-2).

Learned counsel for the petitioner argues that the written statement in this case was ready and it was never the intention of the present petitioner to delay the proceedings in question in any manner. The factum of the lawyers having suspended work on 20/21.03.2018 is

apparent from certificate dated 20.03.2018 (Annexure P-4) issued by the District Bar Association, Ludhiana. Manifest injustice shall be caused to the petitioner, in case, the said order dated 20.03.2018, is not set aside and the present petitioner is not permitted to file the written statement and his defence is struck off. The petitioner should not be made to suffer for any lapse on the part of the counsel. The petitioner was informed that the matter was adjourned due to suspension of work. In case, he had been aware of the factual position, he himself would also have appeared before the learned Rent Controller, Ludhiana. It is thus prayed that this petition be allowed.

Heard learned counsel for the petitioner.

Keeping in view the stand of the petitioner, it is considered appropriate to dispose of this petition without issuance of notice to the respondent in order to obviate any delay and to avoid the burden of unnecessary litigation expenses upon the respondent.

It cannot be disputed that the manifest injustice shall be caused to the petitioner, in case, he is not permitted to file his written statement and his defence is allowed to be struck off. The petitioner is a tenant in the demised premises, which is reflected to be a residential house situated at New Shimla Puri, Near Labour Chowk, Daba Road, Ludhiana.

Keeping in view the facts and circumstances of the case, the impugned orders dated 20.03.2018 and 02.08.2018, are set aside and this petition is disposed of with a direction that in case the petitioner files the written statement within one week from receipt of certified copy of

this order alongwith ₹20,000/- as costs to be handed over to the respondent, the learned Rent Controller, shall accept the same.

It is made clear that in case, the said written statement is not filed within one week from the receipt of certified copy of this order along with costs as above, impugned orders 20.03.2018 and 02.08.2018, shall automatically enure.

Petition is accordingly disposed of.

25.10.2018

s.khan

(LISA GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No