

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

**C.R No. 7456 of 2018(O&M)
Date of decision :31.10.2018**

Avtar Singh

..... Petitioner

Versus

Roshan Lal

..... Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Ashok Bhardwaj, Advocate
for Mr. Pritpal Singh Miglani, Advocate
for the petitioner.

LISA GILL,J

Petitioner is aggrieved of orders dated 22.05.2018 and 15.09.2018, passed by the learned Rent Controller, Ludhiana, whereby the petitioner-tenant who is the respondent in the petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, filed by the respondent-landlord, has been debarred from filing the written statement.

Learned Rent Controller, Ludhiana, vide order dated 22.05.2018 (Annexure P-6), concluded that despite various opportunities, written statement to the amended petition was not filed, therefore, the respondent was debarred from filing his written statement to the said amended petition dated 20.04.2018. Learned counsel submits that the petitioner had earlier filed an application dated 24.04.2018 (Annexure P-7) for dismissal of the petition on the ground of non-compliance of Section 20 (2) (a) of the Punjab Rent Act, 1995. It was ultimately decided by the learned Rent Controller, Ludhiana, on 15.09.2018 (Annexure P-14). In the meantime, two applications were moved by the respondent-

landlord for striking off the defence of the present petitioner on the ground of non-payment of costs and non-filing of the written statement. Learned Rent Controller, vide impugned order dated 15.09.2018 (Annexure P-13), observed that opportunity to file the written statement has already been closed vide order dated 22.05.2018, therefore, no further opportunity would be given to file the written statement.

Learned counsel for the petitioner argues that the respondent-landlord was permitted to amend his petition. Application filed by the respondent-landlord under Order 6 Rule 17 CPC was allowed by the learned Rent Controller, Ludhiana, vide order dated 03.04.2018 (Annexure P-1). Amended petition dated 20.04.2018 (Annexure P-2) was filed. Matter came up before the learned Rent Controller, Ludhiana, on 08.05.2018 and was adjourned to 14.05.2018 for filing of the written statement to the amended petition. As there was a change of counsel on behalf of the petitioner, the matter was again adjourned to 21.05.2018 for filing of the written statement to the amended petition subject to last opportunity. Written statement could not be filed on 21.05.2018 and the matter was adjourned for the next day itself i.e. 22.05.2018 for the said purpose, subject to deposit of ₹2000/- as costs. It is submitted that due to paucity of time and circumstances beyond the control of the petitioner, written statement to the amended petition could not be filed on 22.05.2018 and the learned Rent Controller, Ludhiana, in an unjustified manner, debarred the present petitioner from filing the written statement to the amended petition vide impugned order dated 22.05.2018 (Annexure P-6).

It is submitted that manifest injustice shall be caused to the petitioner, in case, he is not permitted to file the written statement to the amended petition. Learned counsel submits that very short adjournments were afforded by the learned Rent Controller, Ludhiana and it is due to this reason that the written statement to the amended petition could not be filed within the time afforded. It is further submitted that the written statement to the amended petition is ready and if afforded an opportunity, the petitioner undertakes to file the same on 12.11.2018 i.e. the date fixed before the learned Rent Controller, Ludhiana and the petitioner may additionally be put to terms. It is further submitted that the petitioner undertakes that no adjournments shall be sought on the ground of change of counsel, if any. It is thus prayed that this petition be allowed.

Heard learned counsel for the petitioner.

Keeping in view the facts and circumstances of this case, 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.

From a perusal of the file, it is apparent that respondent-landlord was permitted to amend the petition vide order dated 03.04.2018 (Annexure P-1). Amended petition dated 20.04.2018 was filed and the matter was adjourned as mentioned in the foregoing paras. The matter was adjourned as detailed in the foregoing paras. Ultimately the petition was adjourned from 21.05.2018 to 22.05.2018 and the petitioner debarred from filing the written statement. Application filed by the respondent-landlord for striking of the defence of the petitioner on the ground of non-

filing of the written statement and non-deposit of cost was however dismissed by the learned Rent Controller on 15.09.2018 while curiously observing that there was no question of granting an opportunity to the present petitioner to file written statement in view of order dated 22.05.2018. A copy of this order is attached as Annexure P-13 with this petition.

Doubtlessly, the petitioner who is facing eviction proceedings shall be subjected to grave injustice, in case, he is not permitted to file his written statement to the amended petition and his defence is struck off.

Keeping in view the facts and circumstances of the case, orders dated 22.05.2018 and 15.09.2018 are set aside to the extent of debarring the petitioner from filing written statement to the amended petition/striking of his defence and this petition is disposed of with a direction that in case the petitioner files his written statement to the amended petition on 12.11.2018 i.e. the date fixed before the learned Rent Controller, Ludhiana, alongwith ₹20,000/- as costs as well as the cost imposed upon him by the learned Rent Controller (if not already paid), the same be accepted. Cost be paid to the respondent-landlord.

However, it is made clear that in case, written statement is not filed on 12.11.2018 along with the requisite cost imposed by this Court as well as cost which may have been imposed by the learned Rent Controller, no further opportunity shall be afforded to the petitioner and impugned orders dated 22.05.2018 and 15.09.2018, shall automatically enure.

Petition is accordingly disposed of.

Needless to say, in case any averment by the petitioner is opposed to the factual position, the respondent is at liberty to move appropriate application within four weeks.

31.10.2018

s.khan

(LISA GILL)
JUDGE

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