

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

CR No.7641 of 2017 (O&M)

Date of decision : 13.07.2018

M/s Bombay Confectioners through its proprietor

...Petitioner

Versus

Harmohinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Som Nath Saini, Advocate for the petitioner.

Mr. P.S. Guliani, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner is in the revision petition against the order closing his evidence after availing 12 effective opportunities.

A perusal of the record shows that the case was fixed for the evidence of the respondents on 11.05.2016. Thereafter, 2-3 adjournments were granted as the petitioner-tenant offered to settle the dispute with the landlord. Since it failed, on 03.09.2016, the Court passed an order directing the respondent to lead his evidence, file the process fee, diet money and list of witnesses within a period of 7 days.

Learned counsel for the petitioner when asked, expressed his ignorance as to whether any list of witnesses or process fee and diet money was deposited or not. Thereafter the case has been repeatedly adjourned for evidence of the respondent. On 17.04.2017, the Court granted last

opportunity, still the Court granted 4 more opportunities to the petitioner-tenant for leading evidence. On 27.07.2017, when the Court was about to pass an order closing the evidence, counsel for the petitioner-tenant made a statement which is extracted as under:-

“Today Sh. R.K. Dogra, counsel for the respondent has come present and suffered the following statement:-

“Last opportunity may be granted to me for concluding evidence on the behalf of the respondent failing which the same may be closed by order”

In view of such statement adjourned to 16.8.2017 for evidence of defendant at own responsibility subject to last and final opportunity.

Hirdejit Singh
CJJD/JMIC/RC/27.7.2017”

Thereafter on 16.08.2017, one witness was produced and his affidavit in lieu of the examination-in-chief was tendered. A clerk was also present who was examined in chief. On 24.08.2017, Paramjit Singh, the witness on behalf of the petitioner-tenant was present but was not examined and he was bound down for 05.09.2017 and case was adjourned to 05.09.2017 for remaining evidence of the respondent at its own responsibility. On 05.09.2017, once again, no witness was present and the Court ordered that the petitioner-tenant has to lead his entire evidence at their own responsibility subject to last opportunity failing which it would be closed by order. On 28.09.2017, the Court after recording the evidence of Paramjit Singh passed an order.

The grievance of the petitioner-tenant is that he has not been

granted proper opportunity as noticed by the Court. While narrating the facts, it is apparent that the petitioner-tenant has been misusing the process of the Court. He was directed to submit the list of witnesses and deposit the process fee and diet money within a period of 7 days from 03.09.2016, however, it is not the case of the petitioner that any diet money, process fee was deposited or list of witnesses were supplied. Still, the Court granted repeated opportunities to the respondent. On 27.07.2017, counsel for the petitioner-tenant granted last opportunity when the counsel made a statement that if no evidence is led, the evidence be closed by order. Still, thereafter the opportunities were granted to the respondent to lead evidence.

In these circumstances, the order passed by the Court does not require any interference.

Revision petition is dismissed.

13.07.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No