

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

CR No.7645 of 2018

Date of Decision : 28.11.2018

Vijay Garg

.....Petitioner

Versus

Sunil Chandra

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. P.K. Ganga, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This revision is directed against two separate orders passed by the Ld. Civil Judge (Junior Division), Gurugram dated 18th October, 2018.

2. Vide the order of even date (Annexure P-7), the application of the petitioner/tenant under Section 11 of the Civil Procedure Code for dismissal of the original suit/eviction petition on the grounds of same being barred by the *res judicata*, was dismissed as the Ld. Court below was of the opinion that the earlier suit/eviction application filed by the petitioner-landlord had been dismissed for technical defect, and there was no categorical finding on the question of whether or not the alleged personal *bona fide*

requirement of the petitioner-landlord of the demised premises was proved or not.

3. *Per se* this Court finds no visible impropriety in the aforesaid decision, and Ld. Counsel for the petitioner submits that he would be satisfied if along with a decision on rest of the issues framed, the Ld. Trial Court may re-consider alleged non-maintainability of the suit on the grounds of the *res judicata* at the stage of final hearing.

4. In the given circumstances, this Court finds no reason to interfere with the impugned order at this stage, and a direction is passed upon the Ld. Trial Court to re-consider this aspect while identifying the issues to be framed in the light of the pleadings of the parties.

5. The second order of the same date (18th October, 2018) is directed merely against the imposition of cost which according to the petitioner/tenant is exorbitant.

6. This Court is not inclined to issue any notice upon the landlord-respondent at this stage because such a course would only have the effect of unnecessarily delaying the pending proceedings.

7. Consequently, the revision is disposed off by modifying the second order dated 18th October, 2018 vide which cost of

Rs.20,000/- was imposed upon the petitioner for accepting his written statement at a belated stage. In the given circumstances, the amount of aforesaid cost is reduced to Rs.10,000/- in favour of the respondent.

8. Any excess payment in compliance of the aforesaid order, if already made by the petitioner may be adjusted against his future rental liabilities.

November 28, 2018
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No