

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 8391 of 2017

Date of decision : April 26, 2018

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Vijay Gupta

.....Petitioner

Versus

Dogar Singh

.....Respondent

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BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Jaideep Verma, Advocate for the petitioner.

Mr. Naveen Batra, Advocate for the respondent.

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RITU BAHRI, J.

The petitioner has come up in present revision petition against the order dated 21.11.2017 (Annexure P-12) passed by the Rent Controller, Anandpur Sahib whereby evidence of the petitioner-tenant had been closed and the trial was fixed for 28.11.2017 for rebuttal evidence

Briefly stated, the facts of the case are, that the petitioner had taken tenanted premises from the respondent on rent @ Rs.15,000/- per month, which was further enhanced @ Rs.17,600/-. The petitioner was regularly paying the rent after deducting TDS. Respondent entered into an agreement to sell the tenanted premises with the wife of the petitioner. However, he failed to execute the sale deed in her favour. Wife of the petitioner filed civil suit for specific performance against him before the Civil Court. Respondent-Dogar Singh filed application (Annexure P-1) under Section 13 of the East Punjab Urban Rent Restriction Act for eviction

of Vijay Gupta petitioner from the tenanted premises. Upon notice, petitioner appeared and filed written statement (Annexure P-2). After going through the pleadings, Rent Controller, Anandpur Sahib framed issues and matter was fixed for the landlord/respondent's evidence on 4.12.2013. Finally, landlord closed the oral evidence on 13.10.2017. On the next date i.e 27.10.2017, petitioner deposited the rent from October 2017 to December 2017 and on joint request, matter was adjourned for 31.01.2017. On 31.10.2017, time was sought by both the parties to lead evidence and matter was again adjourned for 6.11.2017. Thereafter on 6.11.2017, RW-1 Vijay Gupta came present in the Court, tendered his affidavit by way of examination in chief Ex. RW-1/A along with documents Ex.R-1 to R-7. However, he was not cross-examined and thereafter the matter was adjourned for 14.11.2017. On 14.11.2017, the petitioner could not come and a request was made for adjournment. On request, the matter was adjourned to 27.11.2017 vide order dated 14.11.2017 (Annexure P-9). Though, the matter was actually fixed for 27.11.2017, but the same was wrongly listed on 21.11.2017. On that date, the evidence of the tenant was closed.

Feeling aggrieved, the petitioner filed revision petition before this Court.

This Court while issuing notice of motion vide order dated 30.11.2017 has observed that when the case was listed on 27.11.2017 by order dated 14.11.2017, how did the case get listed on 21.11.2017. On that date, counsel for the petitioner submitted that an application (Annexure P-10) for adjournment was made on the basis of medical certificate on 21.11.2017 and despite that the evidence of the petitioner-tenant was closed.

With regard to this jugglery of dates, an explanation was sought from the Rent Controller. Operation of the order dated 21.11.2017 was stayed.

As per the directions of this Court dated 30.11.2017, an explanation dated 13.12.2017 was submitted by Mr. Ashok Kumar Chauhan, PCS, Additional Civil Judge (Sr. Divn.)-cum-Rent Controller, Sr. Anandpur Sahib. A perusal of the report showed that the medical certificate of the tenant was not found to be genuine and hence the evidence was closed. It also transpires that the petitioner Vijay Gupta was aware about the date of 21.11.2017 as this fact was mentioned in his application (Annexure P-10) for adjournment.

After going through the report and after hearing counsel for the parties, this Court is of the view that the present revision petition deserves to be allowed. Petitioner-tenant started to get his evidence recorded on 6.11.2017 and the respondent-landlord had taken almost four years to conclude his evidence.

In view of all that has been discussed above, this petition is being allowed and two effective opportunities are being granted to the petitioner-tenant to conclude his evidence subject to payment of Rs.5000 as costs before the State Legal Services Authority, Ropar.

April 26, 2018
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No