

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

-.-
CR 1269 of 2014 (O&M)
Date of decision: 09.05.2019

Satwant Kaur and another

.....*Petitioners*

Versus

Harvinder Singh

.....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-
Present: Mr. Namit Gautam, Advocate
for the petitioners

None for the respondent

-.-

Rekha Mittal, J. (Oral)

The present petition directs challenge against order dated 08.01.2014 passed by the Rent Controller, Ludhiana whereby application for recalling the order closing evidence of the respondent/applicant in eviction proceedings has been recalled and the respondent (herein) has been allowed one opportunity to appear as his own witness subject to payment of Rs.5,000/- as costs.

Counsel for the petitioners would contend that the Rent Controller is not empowered to recall its own order. It is further argued that all the provisions of the Code of Civil Procedure are not applicable to rent proceedings, as has been held by this Court in a number of judgments. It is further argued that the order impugned is bereft of reasoning, therefore, cannot be allowed to sustain on this score alone.

There is no representation on behalf of respondent, earlier being represented by a counsel.

A relevant extract from order passed by the Rent Controller

reads as follows:-

“After hearing learned counsel for the parties on application for recalling the order, I am of the considered view that order of closure of evidence by order is a docket order and not an order on merits as held by Hon'ble High Court in various judgments and other party can be compensated with cost. So, present application is allowed subject to cost Rs.5,000/- Cost paid, but same is returned by opposite party. Now come upon 21.01.2014 for petitioner's evidence. However, it is made clear that only one opportunity is granted for petitioner to appear as a witness and no more witness would be allowed to tender. Now come upon 21.01.2014”

Perusal of the aforesaid extract leaves no manner of doubt that the Rent Controller has not recorded any reason to justify recalling the order and allowing an opportunity to the respondent to adduce evidence by way of his own testimony. As the order sans process of reasoning and bereft of reasons for allowing the aforesaid concession, the same cannot be allowed to sustain and liable to be set aside. Ordered accordingly.

In view of what has been discussed hereinabove, the instant petition is allowed; impugned order is set aside and the matter is remitted to the Rent Controller, concerned for deciding the application of the respondent for recalling the order closing evidence afresh, in accordance with law.

(Rekha Mittal)
Judge

09.05.2019

Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No