

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

CR No.1665 of 2018

Date of Decision: 18.09.2019

Dharam Paul (since deceased) through LRs

..... Petitioner

Versus

Rekha Sharma and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

Mr. Arun Jindal, Advocate
for the respondents.

SUDIP AHLUWALIA J. (ORAL)

The challenge in this revision petition is to the order passed by the Ld. Civil Judge (Junior Division), Malerkotla on 16.02.2018 vide which an unregistered Rent Note was permitted to be taken into evidence without deciding the objection to its admissibility as raised on behalf of the present petitioner-tenant.

2. The Ld. Court below in its impugned order has observed *inter alia*:-

“This court is of the view that the Ld. Counsel for the respondent has took the objection with regard to admissibility of the document and insufficient stamp on the rent note which can be kept open and decided at the time of passing final judgment after perusing the evidence led by both the parties. Since objection is not with regard to the mode of proof of

the document, therefore, there is no need to decide the objection at this stage of the suit/petition. At this stage of the suit the Counsel for the petitioner is allowed to exhibit the document. Accordingly, application stands dismissed and disposed of and above terms. Case stands adjourned to 27.02.2018 for evidence of the petitioner.”

3. It has been argued on behalf of the petitioner that the Ld. Rent Controller was obliged to decide on the question of admissibility on the disputed document at the earliest stage itself without proceeding further in the case. Reliance in this regard has been placed upon the earlier judgment of this Court in “**Girdhari Lal vs. Ritesh Mahajan**”, 2005 (2) **R.C.R. (Rent) 426**, which was subsequently also followed in “**Raj Kumar vs. Bawa Jai Gopal Singh**”, 2006 (1) **R.C.R. (Rent) 222**.

3. A Division Bench of the Karnataka High Court in “**Umakanto Rao vs. Lalitabai**”, 1988 (2) **HLR 376**, had also observed that objections on the admissibility of a document ought to be decided before admitting the same in evidence and proceeding further with trial, by the Ld. Trial Court.

4. On the other hand, contention of Ld. Counsel for the respondent-landlord is that it is otherwise the settled law that unregistered Rent Note/Lease Deed can still be taken into evidence for “*Collateral purpose*”. For this, to support his contention, the decisions of the Supreme Court in “**Shibani Basu vs. Sandip Ray**”, 2011 **AIR (SC) 509**, and the Madras High Court in “**Ayyavu (died) and 8 others vs. Shanti Bibi and 9 others**”, 1999 (3) **CTC 400**, have been cited.

5. After hearing Ld. Counsel for both the sides, the view of the Court is that even assuming the unregistered Rent Note was sought to be led into evidence only for any “*collateral purpose*” still its admissibility for that limited purpose ought to have been considered and decided by the Ld. Trial Court, when the objection was raised and the same should not have been deferred for a subsequent stage after completion of the evidence.

6. By not deciding on the admissibility even for the special circumstances relied upon by the respondent side, the Ld. Trial Court certainly fell into an error.

7. The revision petition is, therefore, allowed after setting aside the impugned order dated 16.02.2018 with a direction upon the Ld. Court below to consider and decide the petitioner's application challenging the admissibility of the disputed document (Annexure P-5), after hearing the arguments of both sides, as expeditiously as possible, and, preferably within a month from the date of communication of this order and further endeavour to finally dispose off the eviction Suit preferably within a period of six months. It is further clarified that this Court has not expressed any views to the merits of the respondent's submission that the document in question was sought to be led into evidence for any “*collateral purpose*”.

September 18, 2019
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(SUDIP AHLUWALIA)
JUDGE

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