

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

CR No. 891 of 2019 (O&M)
Date of decision: 21.2.2019

Krishan Garg (since deceased) through his Legal representatives
...Petitioners

Versus

Khushi Ram Wadhwa and another
...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Abhishek Singla, Advocate,
for the petitioners.

JAISHREE THAKUR, J.

1. This revision has been filed under Article 227 of the Constitution of India with a prayer for setting aside the order dated 21.8.2018 passed by the Rent Controller, Bathinda, whereby the application filed by the petitioners under Order 11 Rules 1 and 2 of the Code of Civil Procedure for serving interrogatories has been dismissed.

2. In brief, facts are that the respondents herein filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against the predecessor of the petitioners for his ejectment from the shop, described in the head note of the petition, inter-alia on the grounds of non-payment of rent and personal necessity of his son. It was stated that the shop was required for Yogesh Wadha son of respondent No.2, who wants to start a business of sale of gold, silver etc.

3. The petition was contested by the petitioner on the ground that

the respondents are owners of various other commercial buildings and this fact has not been disclosed and since they have not come to court with clean hand, the petition deserves to be dismissed.

4. After completion of the pleadings, issues were framed and the parties were allowed to lead evidence. When the case was fixed for evidence of the petitioners/tenants, they filed an application for permission of the court to serve the interrogatories under Order 11 Rule 1 and 2 of the Code of Civil Procedure, which came to be dismissed, giving rise to the present petition.

5. Learned counsel for the petitioners submits that the Rent Controller has not properly appreciated the provisions envisaged in Order 11 Rule 1 and 2 flowing from Section 30 of the Code of Civil Procedure and has wrongly dismissed the application on the ground that the application has been moved at a belated stage and as such the impugned order deserves to be set aside. He places reliance on a judgement rendered in **Transport Corporation of India Ltd. V. Reserve Bank of India (Delhi) 2017 (4) CivCC 612** in support of his arguments.

6. I have gone through the impugned and perused the documents annexed with the case and do not find any merit in the argument raised.

7. Order 11, Rule 1 of the Code reads as under:-

"Discovery by interrogatories - In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:"

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided also that interrogatories which do not relate to any matter in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross examination of a witness."

According to the aforesaid Rule, the plaintiff or the defendant with the leave of the Court is entitled to deliver interrogatories in writing for the examination of the opposite party or any one or more of such parties which are essential for the just decision of the suit.

8. A perusal of impugned order would show that eviction application was filed by the respondents/landlord in the year 2014 and thereafter entire evidence was concluded by them in November, 2017. However, when the trial was at the fag end, the petitioners moved the application under Order 11 Rule 1 & 2 of the Code of Civil Procedure for serving interrogatories to the respondents/landlords. No doubt, the intention of the legislature to introduce the provisions of interrogatories is to narrow down the point in issue so as to save the valuable time of the court, but in the present case, it appears that the intention of the petitioners to move the application was to delay the proceedings and fill up lacuna because the application has been moved at the fag end of the trial. The case law as relied upon is distinguishable since the interrogatories were supplied immediately after the issues were framed, unlike in the present case. From the perusal of the reply to the application under Order 11 CPC, it is clear that the petitioners sought more than 15 adjournments for leading their evidence

after the respondents/landlords had concluded their evidence in the year

2017. The Rent Controller, while dismissing the application observed as under:-

“...Further, admission in the interrogatories save the time of the court as the facts which are admitted, it need not to be proved. But in the present case, first of all, the application has been filed at the fag end of trial and the applicant want to seek the information regarding the building bearing no. 5871 and MCB No. Z-1-10849 which is not material for the adjudication of the present case as in para no. 3 (ii) of the petition, it has specifically averred that the building bearing no. 5871 is located in a closed street not in a market. Further whether the petitioner has sold the shop situated at Dhobi Bazaar, Bathinda to the owner of Jaipur Jeweller is not material at this stage.

In the present case, the evidence of the petitioner has already been concluded and the case was fixed for respondent's evidence and even when the case was fixed for the cross-examination of the respondent's witnesses, the application has been filed. Hence, the application in hand has been filed at the fag end of the trial to fill up the lacuna and prolong the litigation”.

9. This Court does not find any fault with the reasoning given by the Rent Controller for dismissing the application. Consequently, the revision petition is dismissed.

21.2.2019

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

No