

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

**CR no.911 of 2019 (O&M)
Date of Decision: 22.02.2019**

Suresh Kumar

...Petitioner

Vs.

Shree Sanatan Dharam Sabha

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Kashish Garg, Advocate, for the petitioner.

Amol Rattan Singh, J (Oral)

Pursuant to the notice issued, Mr. Inderjeet Sharma, Advocate, appears for the respondent and has filed his *Vakalatnama*, which is taken on record.

By this petition, the petitioner challenges the order of the learned Rent Controller, Bathinda, dated 20.12.2018. (The Rent Controller has wrongly shown her designation in the impugned order as Civil Judge (Jr. Divn.), such not being the capacity in which the impugned order has been passed).

Vide the said order, the application filed by the petitioner has been dismissed, by which he was seeking a direction to the respondent (landlord and petitioner before the Rent Controller), to furnish the account numbers and names of the banks where such accounts are maintained for the past 7 years.

The reasoning given by the learned court is to the effect that

Ex.R-1 filed by the petitioner (respondent before that Court) is already on record, showing the total strength of students of the school and therefore there could be no better proof than the said document to prove the strength of students.

Notice had been issued in this petition on an argument raised by the learned counsel for the petitioner on the last date of hearing, to the effect that the students had actually been decreasing as per Ex.R-1 but corroborative evidence is needed to rebut what has been stated by a witness for the respondent during cross-examination by the present petitioner.

In response, learned counsel for the respondent submits that the bank accounts would not be necessary at all, in view of what has already been stated by the learned Rent Controller in the impugned order, with the respondent herein to prove its *bona fide* need for the premises, even in the face of the comparative statement that has been relied upon by the petitioner herein (respondent before that Court), as has been referred to as Ex.R-1 herein above.

In rebuttal, learned counsel for the petitioner has produced in Court today a copy of the cross-examination of AW-2, Parmod Mittal, President of the respondent-Sabha, from which he points to the following:-

“The difference between 2 figures i.e. between Ex.R-1 and shown in my affidavit is due to the number of students in the open school and other part-time courses. I do not know whether now a days we are admitting students for open school or not. I cannot say whether the meaning of open school is that the students will come to give exams only and not to attend the classes. It is wrong to suggest that I know about the open school concept and deliberately not giving answers. I do not know about the

other courses if any running in the school. I cannot tell the name of other course.

It is wrong to suggest that Sh Abhey Singla and Sh. Surinder Mittal Manager were not authorized to file eviction application. It is wrong to suggest that strength of students is not increasing every year.”

Though a part of the aforesaid testimony conducted on 02.08.2018 is not on the record of this petition, learned counsel for the respondent very fairly submits that he does not refute that the copy of the cross-examination produced in Court is the correct copy of those proceedings before the Rent Controller.

That being so, though otherwise what the learned Rent Controller has stated in the impugned order would at first blush not seem to be erroneous in any manner, however, when it is *juxtaposed* with the statement made by the aforesaid witness in his cross-examination, to the effect that the difference between the 'figures of students' from year to year is due to the number of students in the open school and other part time courses, with that not being reflected in the record available with the petitioner, in my opinion simply asking for further proof to substantiate his contention that the number of students has been decreasing (as contended by him) should not have been refused by the Rent Controller, such record being sought to rebut the testimony of a witness for the landlord.

Consequently, this petition is allowed, with the impugned order set aside. The application filed by the petitioner before the Rent Controller as has been dismissed, seeking the information with regard to the bank accounts of the respondent herein to show the number of students actually

enrolled with the respondent, is allowed, with the respondent to furnish the said information before the Rent Controller.

It is however made absolutely clear that allowing the application of the petitioner does not in any way reflect the opinion of this Court on, firstly, whether or not the number of students has increased or decreased, or even with regard to the merits of the case of the parties, i.e. as to whether, simply on account of any such increase/decrease of students, the respondent is or is not entitled to eviction of the petitioner.

Naturally that primary issue would be decided by the Rent Controller wholly on the basis of the evidence led by the parties on every aspect.

22.02.2019
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes