

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

C.R. No. 1099 of 2019 (O&M)

Date of Decision: May 03, 2019

Rajinder Singh Verma

.....Petitioner

Vs.

Jatinder Kumar Sharma (deceased) through LR's and attorney Dhruv
Vashisht

.....Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ravi Kant Sharma, Advocate,
for the petitioner.
Mr. Sanjiv Ghai, Advocate
for the respondent.

JAISHREE THAKUR, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.01.2019 passed by the learned Rent Controller, Yamuna Nagar for not permitting the petitioner herein to cross-examine the landlord-plaintiffs witness in the eviction proceedings.

Mr. R.K. Sharma, learned counsel appearing on behalf of the petitioner contends that the Rent Controller has erred in denying opportunity to cross-examine the landlord who appeared as AW-1 and that

not permitting him to cross-examine AW-1 would amount to denial of opportunity to prove his case.

Per contra, learned counsel appearing on behalf of the respondent herein contends that the Civil Judge, Jr. Division, Jagadhri rightfully closed the evidence of the petitioner herein as the respondent-tenant failed to cross-examine the witness who was present in Court on 5 separate occasions and therefore, it is argued that no interference would be called for at this stage while also submitting that the witness namely Sh. A.P. Sharma has subsequently died.

I have heard learned counsel for the parties and have also perused the order of the Civil Judge, Jagadhri and find no infirmity in the same. Aw-1 was present in Court when his cross-examination was deferred as the learned counsel for the petitioner made the statement that the brief had been taken from him. The Civil Judge took note of the fact that the evidence by way of an affidavit of the witness was tendered in chief-examination on 15.07.2017 and on the request of the counsel was deferred. The witness was again present in Court on 01.11.2017 and again his cross-examination was deferred on the request of the counsel for the petitioner herein and the case was adjourned to 22.11.2017, on which date again the witness was present but his cross-examination was deferred subject to payment of ₹200/- as costs.

The case was then kept for the evidence for cross-examination for 07.01.2019 when again the cross-examination of the witness was done. Taking into account the conduct of the petitioner, the evidence was closed which order has been challenged.

The petitioner had been given five opportunities to cross-examine the witness who was present in the Court, however, for the reasons best known to him, he did not do so. In the meantime, the said witness, who is sought to be recalled for cross-examination has since expired and therefore, in such a situation, this Court has no option but to dismiss the instant revision petition.

Dismissed.

May 03, 2019
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No