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

CR-2213-2019 (O&M)

Date of decision : 01.04.2019

Mohinderjit Kaur

... Petitioner

Versus

Rajinder Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gurmeet Singh, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

Notice of motion.

On the asking of the Court, Mr. Dinesh Nagar, Advocate, who is present in Court, accepts notice on behalf of the respondent.

The present revision petition is directed against the impugned order, whereby an application of the petitioner-landlord for additional evidence to place on record fard jamabandi and site plan, at the final stage of the rent petition, has been dismissed.

The petitioner-landlord instituted the ejectment proceedings of the respondent from a shop marked by letters 'ABCD' on the premise that the respondent was inducted as a tenant on the oral tenancy. The ejectment was sought on the ground of non-payment of rent, personal necessity, change of user and dilapidated condition.

In the said petition, the respondent denied the site plan filed by

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the petitioner to be correct as he did not depict the actual and factual position, but did not deny the status as a tenant and rent alleged to be ₹400/- instead of ₹3,000/-.

Learned counsel for the petitioner-landlord submitted that due to inadvertence, the site plan relied upon in the rent petition, had not been proved, in accordance with law as strict provisions of the Code of Civil Procedure, in a rent petition, do not apply. No harm and prejudice would be caused as the respondent would be able to rebut the same, in accordance with law.

As regards the other document, it was stated that the ownership was also required to be proved.

Per contra, learned counsel for the respondent-tenant submitted that the petitioner failed to lead evidence, while concluding it, in affirmative. In the absence of rebuttal issue, such permission is not permissible as per the provisions of Code of Civil Procedure. Earlier the evidence of the petitioner was closed, vide court order dated 13.10.2018, which was challenged in this Court in Civil Revision No.14 of 2019 and this Court allowed the petitioner to examine one witness, thus, urges this Court for dismissal of the present second appeal.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is some force and merit in the submission of Mr. Gurmeet Singh, as regards the proving on record, the site plan, in accordance with law, for, it is not necessary for every landlord to prove to be the owner, particularly when the respondent-tenant had admitted himself to be a tenant @ monthly rate of ₹400/-. The approach of the petitioner in the ejectment petition containing one of the ground of personal necessity, is

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cavalier, but in order to advance justice and prevent miscarriage of justice, I deem it appropriate to allow the application in part, to prove on record the site plan, in accordance with law, with liberty to the respondent-tenant to rebut the same, in accordance with law. Accordingly, the impugned order, under challenge, is set aside subject to the costs of ₹2,500/-, which shall be condition precedent.

The present revision petition stands allowed.

01.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**