

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**1. CR No. 2483 of 2019 (O&M)
Date of Decision: 12.04.2019**

Roopan Kataria

...Petitioner

VERSUS

Ravinder Singh and another

...Respondents

2. CR No. 2498 of 2019 (O&M)

Roopan Kataria

...Petitioner

VERSUS

Ravinder Singh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajan Bansal, Advocate
for the petitioner in both the petitions.

SURINDER GUPTA, J.

Above captioned revision petitions have been filed against two separate orders both dated 15.03.2019, whereby applications of the petitioner seeking recall of AW-4 Ravinder Singh (respondent no. 1-landlord) for further cross-examination and for service of interrogatories on respondent were dismissed by learned Rent Controller, Bathinda. Vide his application under Order XI Rule 1 read with Section 151 CPC, he sought permission to serve interrogatories upon respondent no. 1-Ravinder Singh, and vide other application recall of respondent no. 1-Ravinder Singh was sought to ascertain creation of R.S. Gill HUF, its constituent, to know about the bank where HUF is maintaining account, to produce the leasehold agreement entered into by R.S. Gill HUF in favour of various tenants and ownership of such non residential commercial properties.

2. Learned counsel for the petitioner has argued that the petitioner has come to know that respondent no. 1-landlord has created a HUF and there are several properties of that HUF, which have not been disclosed by him. In order to bring on record details of those properties, petitioner has moved application to serve interrogatories upon respondent no. 1-landlord and also to recall him for the purpose of further cross-examination about the properties of HUF.

3. The ejectment petition was filed in the year 2011 and after prolonged adjournments evidence was concluded and it was fixed for rebuttal and arguments, when petitioner-tenant filed above applications. However, delay in proceedings is not sole reason to consider the plea raised by the petitioner-tenant or to ascertain the legality, validity and admissibility of the plea as raised by him.

4. The question, which arises for consideration, is as to whether the revision-petitioner has filed above two applications after some new facts came to his knowledge or he has simply moved these applications to extract some information from respondent no. 1-landlord. A look on the application filed by revision-petitioner to serve interrogatories upon respondent no. 1-landlord shows that revision-petitioner has not got any information at this stage regarding which he wants to confront respondent no. 1-landlord. Interrogatories he intends to serve upon landlord-respondent are as follows:-

1. *Have you formed separate unit under label of RS Gill HUF?*
2. *If answer to interrogatory no. 1 is in the affirmative, then when this HUF was constituted and the number and names of its constituents?*

3. *What are the non-residential/commercial properties owned by said HUF, if so the municipal number of the properties and details of their location be given?*
4. *If answer to interrogatory no. 3 is in the affirmative then whether said non residential/commercial buildings are vacant and unoccupied or whether they have been leased out if so the names of tenants, the dates on which the premises let out, the documents of tenancy and the rate of rent being charges be disclosed?*
5. *Whether RS Gill HUF ever received any payment on regular monthly basis from previous tenant Dr. Ravinder Singh of Sidhu Hospital and Diagnostic Centre and now tenant Dr. Davinder Jindal regarding the building of Ajit Road, near Ghorewala Chowk, Bathinda, if so, the amount of recovery, month, payment and nature of said payment?*
6. *In which bank or banks, RS Gill HUF is maintaining its accounts, if so, the names of the bank and details of the account number and nature as to whether it is current account or saving account or any other account and the full names of account holder and authorized signatory to operate the account.”*

5. In case petitioner had some information about the properties owned by respondent no. 1-landlord or his HUF, he would have specifically mentioned the same in the interrogatories, which have been filed only to seek information if any HUF exists and if so, whether any property is owned

by it. Learned Rent Controller has though taken into account the fact that these interrogatories could be served before settlement of the issue and has also taken note of delay in filing this application and maintainability of these interrogatories but it is apparent that the plea raised by learned counsel for the petitioner that petitioner has now come to know about certain new facts is without basis. In case he had come to know about certain new facts he must have disclosed those facts in the interrogatories itself.

6. In support of his contention learned counsel for petitioner has relied on observations in case of **M/s National Agro -Chemical Industries Ltd. vs. National Research Development Corporation, 2006(2) RCR (Civil) 98.** In that case cross-examination of a witness was not concluded and learned Division Bench of Delhi High Court held that Court is competent to recall any witness to complete his statement.

7. Learned counsel for the petitioner has also relied on observations of Apex Court in case of **K.K. Velusamy vs. N. Palanisamy, 2011 (4) SCR 31,** wherein Apex Court has observed that the Court can permit fresh evidence if same is relevant to render justice and its non-production earlier was for valid reasons. It was observed that powers to recall a witness is discretionary and should be used sparingly in appropriate cases to enable the Court to clarify the doubts it may have in regard to evidence led by the parties. Reliance has also been placed on observations in cases of **Om Parkash vs. Subhash Chander and another, 2018 (3) PLR 103,** **Sahanaz Akhte vs. Sk. Asfar Ali Hossain, 2009 (13) RCR (Civil) 197,** **Rajinder Pal vs. Rajindra Soap Works and another, 2018 (1) Law Herald 534.** Aforesaid judgments relate to permission to lead additional evidence, which is not subject matter of applications filed by the petitioner. In case of

Rajinder Pal (supra), suit was for recovery of money, which was reflected in the account book and income tax return of the landlord-respondent and interrogatories were issued out of which some were found relevant for the just decision of the case and directions were issued to the trial Court to decide as to which interrogatories set up by petitioner are relevant.

8. As discussed above, none of the interrogatories is relevant in this case. If the petitioner had information about any property of respondent no. 1-landlord he should have come up specifically in that regard instead of making fishing enquiries. Similar attempt appears to have been made in the application while seeking to recall the respondent no. 1-landlord for further examination.

9. On perusal of orders of learned Rent Controller, I find that both the applications of petitioner have been rightly rejected and orders passed by learned Rent Controller calls for no interference in these revision petitions, which have no merit.

Dismissed.

April 12, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No