

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

CR No. 2789 of 2019 (O&M)
Date of decision: 1.5.2019

Sukhdev Ram @ Sukhdev Sharma (deceased) through LRs.
...Petitioner

Versus

Darshna Devi and others
...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajan Bansal, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

1. This revision has been filed under Article 227 of the Constitution of India has been filed seeking to challenge the order dated 1.3.2019, whereby the Rent Controller closed the evidence of the petitioner.

2. In brief, the facts are that respondent No.1 filed a petition under Section 13 of the East Urban Punjab Restriction Act, 1949 seeking eviction of the petitioner and other sub tenant from shop No. 6, part of building MC No. 946, on the ground of arrears of rent, subletting and other shops in question being in highly dilapidated condition and not fit for human habitation.

3. The petitioner contested the petition taking the plea that he had wrongly been shown as sub-tenant, whereas in fact, he was a tenant in his own right. The issues were framed on 25.4.2012 and evidence of the landlady/respondent No.4 was closed on 5.12.2015 and the matter was adjourned for 23.12.2015 for the evidence of the petitioner and other

performa tenants. The petitioner herein moved an application for directing the landlady to permit the draftsman witness to enter, inspect and measure all the shops and also filed an application for production of original purchase deed. Thereafter, on production of the sale deed, the petitioner herein filed an application seeking permission to produce a hand writing expert to take photographs and sample signatures of the husband of the landlady/respondent No.1. The respondent/landlady filed an application seeking production of rent receipts on the basis of which the petitioner had claimed to be paying rent. Both these orders were challenged before this Court and eventually the stay was vacated on 25.4.2018. Thereafter, the Rent Controller adjourned the matter for 9.5.2018 for the evidence of the petitioner herein. A perusal of the entire zimni orders passed by the Rent Controller reflects that the case was adjourned to 17.5.2018, on which date no evidence was produced by the petitioner herein. By order dated 31st October, 2018, one last opportunity was granted to the petitioner to conclude his entire evidence and the case was adjourned to 14.11.2018. As the Rent Controller was on leave on 14.11.2018, the case was taken up on 15.11.2018 granting one last opportunity to the petitioner to conclude his entire evidence. Again on the next date, no evidence was present and another opportunity was given to the petitioner herein to conclude his evidence, which was against subsequently followed by a similar order giving last opportunity to conclude the evidence. Eventually, by order dated 1.3.2019, the petitioner evidence was closed by order, which is sought to be challenged by the petitioner.

4. Learned counsel for the petitioner contends that the petitioner

be given one opportunity to lead his evidence and in support of his argument he relies upon the judgment in **Mohinder Singh Versus Mohinder Kaur and others 2017 (2) R.C.R. (Civil) 657**, by which this Court allowed one more opportunity to the petitioner to conclude his evidence, despite the fact that the petitioner therein had failed to conclude his evidence despite several opportunities having been availed of. Learned counsel contends that for doing substantial justice between the parties, the petitioner be permitted to lead his evidence.

5. I have heard learned counsel for the petitioner and I am not inclined to interfere with the impugned order. No doubt the rule of procedure is handmaids of justice and the courts should not deny justice to the deserving litigants as has been held in several judgments, one of them being **Mohinder Singh's case (supra)**, however, this Court also has to see the conduct of the petitioner herein, which would be reflected from the zimni orders so passed. A perusal of the same would reflect that after the application of the petitioner was allowed to examine a handwriting expert, it would have been in the interest of the petitioner to conclude the evidence as expeditiously as possible. A perusal of the zimni orders would reflect that as many as 14 opportunities, including 8 last opportunities were granted to the petitioner to conclude his evidence but the petitioner failed to avail of the opportunities. The proceedings before the Rent Controller are pending consideration since 2010 and have been inordinately delayed. There is no justification for allowing the proceedings to continue without being concluded one way or the other. It is settled law that a litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about

the judicial proceedings pending in the court of law against him or initiated at his instance. From the facts revealed above, it appears that the petitioner is not serious regarding conclusion of his evidence and is deliberately delaying the proceedings.

6. For the reasons afore-stated, there is no merit in this revision.
Dismissed.

1.5.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No