

CR-3052-2019 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-3052-2019 (O&M)

Date of Decision: 30.08.2019

Manjit Singh

....Petitioner

Versus

Bhasn Singh

....Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: None for the petitioner.
 Mr.Surjit Singh Swaich, Advocate
 for the respondent.

JAISHREE THAKUR, J.(ORAL)

1. This is the writ petition that has been filed under Article 227 of the Constitution of India for setting aside the order dated 22.01.2019 alongwith order dated 14.11.2018 and the order dated 01.10.2018, Annexure-P-6, P-7 & P-8 respectively, passed by the Ld.Rent Controller, Ludhiana.

2. In brief, the facts are that in the eviction petition that has been filed under the East Punjab Urban Rent Restriction Act, 1949 before the Rent Controller, Ludhiana against the petitioner who is tenant, the issues have been framed and the case was fixed for the evidence of the respondent and after leading his evidence it was closed on 26.4.2018. Thereafter, the petitioner herein was to adduce his evidence.

3. Despite several opportunities having been availed of, the petitioner did not conclude his evidence which resulted in the order dated 1.10.2018 being passed. The evidence of the respondent was closed by

order and the matter was then adjourned for 10.10.2018 for rebuttal evidence if any. It would be pertinent to mention here that the Rent Controller had imposed cost of Rs.500/- by its order dated 18.09.2018 which had not been paid. After the evidence have been closed, the petitioner herein filed an application for recalling the order dated 01.10.2018 which was contested and a detailed order was passed by the Rent Controller allowing the application for recalling the order subject to payment of Rs 5000/- as cost. While recalling the order, the Rent Controller noted:-

“The respondent has already availed number of opportunities to conclude the evidence but has failed to conclude the evidence. Therefore, respondent shall conclude his examination-in-chief within two opportunities at his own risk and responsibility. The present case is adjourned to 26.11.2018 for payment of cost and for evidence of petitioner”.

4. Thereafter, on subsequent dates i.e. 04.12.2018, 17.12.2018 and 20.12.2018 the cost was not deposited, instead the petitioner herein preferred an application to review the order dated 14.11.2018 which substantially had allowed his application for recalling the order closing his evidence. The said application also was decided by the impugned order dated 22.01.2019. It was a detailed order which gave one more opportunity to the petitioner herein to examine his witnesses again with the stipulation that in case the applicant does furnish his cost, the evidence would stand closed. Aggrieved against the said order, the instant petition has been filed.

5. It would be worthwhile to notice that there is no representation on behalf of the petitioner today and neither had he put in appearance on 01.07.2019.

6. I have heard learned counsel for the respondent and have also perused the paper book alongwith the zimini orders which have been brought to the notice of this Court. It is the opinion of this Court that this is a classic case where the tenant is using all means possible to delay the conclusion of the ejectment application that has been filed against him.

7. The Rent Controller initially closed his evidence by order dated 01.10.2018 while also noticing that cost has not been paid. However, on an application for recall, the same was allowed subject to payment of Rs.5000/- as cost alongwith an adequate opportunity to the petitioner herein to adduce his evidence. However, instead of doing the needful he preferred an application to review the order allowing him opportunity to lead evidence. The Rent Controller was magnanimous enough to allow the petitioner herein one more opportunity to adduce evidence at his own risk and responsibility subject to deposit of cost of Rs.5000/- which he had not deposited. A perusal of the entire order thereafter show that the cost was never deposited.

8. Even though this Court by order dated 09.05.2019 had stayed proceedings before the Rent Controller, it is evident that after order dated 22.01.2019 the matter came up for hearing on several occasion on 01.02.2019, 08.02.2019, 18.02.2019, 07.03.2019, 14.03.2019, 19.03.2019, 28.03.2019, 05.04.2019 on which dates the petitioner ought to have paid the cost and concluded his evidence. The Rent Controller by an order dated 18.02.2019 closed his evidence again on account of non payment of cost

CR-3052-2019 (O&M)

which factor was not brought to the knowledge of this Court. Order dated 18.02.2019 is reproduced hereunder:-

“Today the case was fixed for furnishing the cost and was producing the witness of respondent at own responsibility. The cost was imposed vide order dated 14.11.2018 for reopening the evidence of respondent by granting two opportunities to respondent. The cost has not been paid by respondent despite providing 10 opportunities. Today also respondent has not opted to either make the payment of the cost or examining himself. As such, thus finding no justification to adjourn the case further for defendant evidence. As such evidence of the defendant is closed by order. For rebuttal evidence if any argument, case is adjourned to 26.02.2019.”

Infact, the order dated 18.02.2019 has not been challenged in these proceedings.

9. Given the conduct of the petitioner, not being fair to the Court by informing that subsequent to the order dated 22.01.2019 his evidence had been closed yet again on 18.02.2019, this court does not find any reasonable grounds to interfere in the revision petition which is dismissed with payment of costs which is assessed as Rs.10000/- .

(JAISHREE THAKUR)
JUDGE

30.08.2019
raman

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No