

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

**Civil Revision No. 3588 of 2019 (O&M)
Date of decision: 02.07.2019**

Uttampreet Singh

...Petitioner

Versus

Inderjit Kaur

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Arpan Sabharwal, Advocate,
for the appellant.

Mr. Divanshu Jain, Advocate,
for the respondent.

JAISHREE THAKUR, J. (ORAL)

This is a revision petition that has been filed seeking to challenge the order dated 14.02.2019 passed by the Rent Controller, Ludhiana in a rent petition numbered as RP/696/17, whereby the right of the petitioner to file written statement was struck off.

Learned counsel appearing on behalf of the petitioner tenant assails the said order on the ground that he was under medical treatment and, therefore, was unable to file his written statement within the specified time. It is argued that he was admitted in the hospital and there was an amputation done on the tip of his index finger which was the reason for him being unable to prepare the written statement for filing on the date so fixed.

Notice of motion was issued. Appearance has been caused by Mr. Divanshu Jain, Advocate, by filing power of attorney on behalf of the respondent-landlord. It is argued by him that the petitioner herein is deliberately trying to delay the proceedings initiated under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction on the grounds of non-payment of rent and personal necessity. It is argued that three opportunities were given to the tenant-petitioner well beyond the period specified of 90 days for filing of written statement. It is also argued that the impugned order has been challenged only in the month of May, 2019 and that too after the evidence of the landlord had been led and opportunity had been given for cross-examination.

I have heard learned counsel for the parties and with their assistance have gone through the pleadings of the case as well as the zimini orders as handed over to this Court by learned counsel appearing on behalf of the respondent.

There is no doubt that the defence of the petitioner herein had been struck off by the impugned order dated 14.02.2019 but what is interesting is that after the defence had been struck off, the matter was listed on 14.03.2019 for the evidence of the respondent-landlord. On the said date, the matter was adjourned to 12.04.2019 again for the evidence of respondent-landlord as none was present. This order was passed in the presence of the counsel appearing on behalf of the petitioner-tenant. On 12.04.2019, two PWs were present and examined. On the request of learned counsel for the tenant, cross-examination was deferred for 02.05.2019. On 02.05.2019, the matter was adjourned to 27.05.2019 for cross-examination

and remaining evidence of the landlord, again in the presence of the counsel for the tenant.

The instant petition has been filed and was taken up for hearing on 29.05.2019 without disclosing that proceedings had continued after the impugned order had been passed and evidence of the landlord had commenced while giving opportunity to the petitioner herein to cross-examine the witnesses. In all fairness these facts ought to have been brought to the notice of the Court.

Be that as it may, if the petitioner was aggrieved against the order closing his right to file the written statement, he should have been vigilant and diligent in approaching this Court as soon as possible, which is wholly lacking in the instant case.

The petitioner has approached this Court after a period of three months having lapsed of the impugned order. The maxim “*Vigilantibus Non Dormientibus Jura Subveniunt*” (Law assists those who are vigilant and not those who sleep over their rights) would be attracted if the petitioner had been able to explain the reason why he did not challenge the impugned order immediately. The zimini orders would reflect that the petitioner participated in proceedings and allowed them to continue with evidence being led and opportunity claimed for cross-examination before approaching this Court. It also cannot be lost sight, that despite service the petitioner did not put in an appearance and was proceeded ex parte as far back as 10.10.2018 and subsequently an application was filed for having the ex parte order set aside. By an order dated 08.12.2018, the ex parte order was set aside keeping in view the principles of natural justice of *audi*

alteram partem, the Court adjourned the case for filing written statement which was not filed and the case was again adjourned for filing written statement subject to last opportunity. Despite the said order, written statement was not filed and again another opportunity was given to file the same subject to payment of costs and it is thereafter that the defence was struck off on 14.02.2019.

The argument raised that the written statement could not have been filed since he had been admitted in hospital on 06.02.2019, would have no great relevance since the admission in the hospital was only for one day and he was discharged on the same day i.e. on 06.02.2019 in a stable and satisfactory condition. The admission of the petitioner in the hospital was as an OPD patient. Therefore, this Court is of the opinion that the petitioner herein is using delaying tactics having moved this application at a highly belated stage.

Finding no merit, the revision is dismissed.

02.07.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.