

Civil Revision No. 3824 of 2019 (O&M)

Date of decision : August 28, 2019

Ashok Kumar

.....Petitioner

Versus

Ved Parkash

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

LISA GILL, J.

This petition has been filed for setting aside order dated 10.04.2019 (Annexure P1) passed by the learned Rent Controller, U.T., Chandigarh whereby evidence of the petitioner (respondent – tenant) has been closed by order as he failed to conclude his evidence despite having availed six effective opportunities.

Learned counsel for the petitioner submits that the petitioner, who is a tenant in the demised premises for the last ten (10) years, has been running his cloth business in the said premises. It is due to miscommunication and misunderstanding of the petitioner with his counsel that the requisite evidence could not be led. As of now, the petitioner has not been able to lead any evidence whatsoever to substantiate his case. It is submitted that manifest injustice shall be caused to the petitioner in case, he is not afforded an opportunity to lead his evidence. The matter is stated to be pending before the Ld. Rent Controller on 05.09.2019. The petitioner, it is submitted, undertakes to conclude his entire evidence on 05.09.2019 itself, if permitted.

Heard, learned counsel for the petitioner.

Keeping in view the specific stand of the petitioner, it is

considered appropriate to dispose of this petition without issuance of notice to the respondent in order to obviate any further delay and to avoid the burden of unnecessary litigation expenses upon the respondent.

The petitioner has indeed failed to lead evidence despite various opportunities afforded to him but at the same time, it cannot be denied that the petitioner shall be subjected to great prejudice and manifest injustice in case, he is not permitted to lead his evidence. In the given facts and circumstances, it is considered just and expedient to permit the petitioner one effective opportunity to lead his entire evidence in terms of the statement made before this Court. Accordingly, order dated 10.04.2019 is set aside and it is directed that the petitioner be permitted to lead his entire evidence on 05.09.2019 itself subject to deposit of ₹30,000/- as costs to be paid to the respondent. In case, due to any reason whatsoever, learned Rent Controller is not able to record the evidence of the petitioner on the said date, one effective opportunity shall be afforded to the petitioner to lead his entire evidence. It is made clear that no further opportunity shall be afforded to the petitioner in this respect and in case, the petitioner fails to lead his entire evidence subject to the payment of costs as above, order dated 10.04.2019 shall automatically stand revived.

Accordingly, this petition is disposed of.

Needless to say, the respondent is at liberty to move an appropriate application, in case there is any discrepancy in the facts projected before this Court.

August 28, 2019

rts

(Lisa Gill)
Judge

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