

CR No.4000 of 2019(O&M) 1

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

**CR No.4000 of 2019(O&M)
Date of Decision: 15.07.2019.**

M/s Bawa Sanitation and another

.....Petitioners

Versus

Jasmeet Kaur and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vishal Deep Goyal, Advocate
for the petitioners.

LISA GILL, J(Oral).

Petitioners(tenants), are aggrieved of order dated 01.04.2019 (Annexure P-6) and order dated 18.05.2019 (Annexure P-9), whereby, the petitioners-tenants application for recalling PW-1-Jasmeet Kaur (respondent no.1), was dismissed and application for review of the said order was also dismissed by the learned Rent Controller, Ludhiana.

Brief facts necessary for the adjudication of the case are that a petition under Section 13 of the East Punjab Urban Rent Restriction Act, (for short 'Act') was filed by the respondents-landlords seeking eviction of the present petitioners from the demised premises.

Perusal of the file reveals that PW-1-Jasmeet Kaur (one of the landlords), was examined-in-chief on 03.07.2018. Her cross-examination was deferred for 30.07.2018 at request of learned counsel for the tenants. PW-1 was present on 30.07.2018, but was not cross-examined as an adjournment was sought by learned counsel for the tenants. The petitioners counsel again did not cross-examine the said witness on 09.08.2018 and sought another adjournment which was allowed subject to cost of ₹1000/-.

Cost of ₹1000/- was paid on 08.10.2018, but cross-examination could not be conducted as PW-1 was not present and the matter was adjourned to 12.11.2018. However, despite the witness being present, the matter was adjourned on request of learned counsel for the tenants. On the next date of hearing i.e., 16.11.2018, as the presiding officer was on leave, the matter was adjourned to 17.01.2019 and yet again for 11.02.2019. PW-1 was cross-examined on 11.02.2019 and evidence of the petitioner was closed in the affirmative. The matter was adjourned for evidence of the tenants (respondents in the petition) for 21.02.2019.

It is noticed by the learned Rent Controller, Ludhiana, that despite last opportunity afforded to the petitioners-tenants, evidence was not led, rather an effort was made to pursue the application for recalling PW-1-Jasmeet Kaur. It is further observed that no ground whatsoever is made out for recalling of the said witness and the application was accordingly dismissed by the learned Rent Controller, Ludhiana, on 01.04.2019.

An application dated 12.04.2019, was moved by the petitioner for recalling of order dated 01.04.2019, on the ground that the counsel for the tenants was operated upon his right hand, therefore could not come present himself to apprise the Court of the entire facts. The said application was dismissed on 18.05.2019 by the learned Rent Controller, Ludhiana, after recording the detailed reasons. It is specifically observed that no information regarding surgery, etc., was brought to the notice of the Court as averred in the petition. The merits of the matter have however been discussed.

Aggrieved therefrom, present revision petition has been filed.

Learned counsel for the petitioners submits that recall of PW-1-Jasmeet Kaur, is imperative for the reason that certain documents related to the partnership firm from whom the property in question was bought by the

respondents-landlords, are necessary for the just and proper adjudication of the matter. The petitioner, by means of application dated 22.02.2019, moved immediately after evidence of the landlords was closed, sought further cross-examination of PW-1 and also sought a direction to PW-1 to produce the documents regarding the partnership firm, registration of Shop Act and Income Tax returns of M/s Chawla Enterprises, which is in-fact a firm of the petitioners. It is further stated that in the written statement, it is mentioned that the sale transaction is a sham transaction. Therefore, learned Rent Controller, has wrongly dismissed the application for recall of PW-1-Jasmeet Kaur. It is thus prayed that this petition be allowed and the orders passed by the learned Rent Controller, be set aside.

I have heard learned counsel for the petitioners and have gone through the file with his assistance.

A perusal of the pleadings of the respondents-landlords reveals that there is a specific averment to the effect that husband of PW-1-Jasmeet Kaur, is a salesmen in the cloth business run by his elder brother under the name and style of M/s Chawla Enterprises. Testimony of PW-1 is attached with this petition as Annexure P-3. PW-1 has claimed her husband to be an employee with M/s Chawla Enterprises. Specific questions in respect to the said partnership as well as the partnership deed of the firm, have been put to the said witness. Learned Rent Controller, Ludhiana, in these circumstances have rightly observed that sufficient opportunities were afforded to the present petitioners to cross-examine PW-1-Jasmeet Kaur.

Learned counsel for the petitioners is unable to point out any illegality or infirmity in the impugned orders dated 01.04.2019 as well as order dated 18.05.2019, passed by the learned Rent Controller, Ludhiana, which calls for any interference in exercise of revisional jurisdiction by this

Court.

No other argument has been raised.

Present petition is, accordingly, dismissed with no order as to costs. Needless to say, it is always open to the petitioners to lead evidence in this respect as admittedly the matter is listed for the petitioners-tenants evidence, which shall be taken into account by the learned Rent Controller, Ludhiana, in accordance with law.

It is clarified that none of the observations in this order are a reflection on the merits of the case and are confined for the purpose of decision of the revision petition.

15.07.2019
s.khan

[LISA GILL]
Judge

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