

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

CR No.4967 of 2019 (O&M)

Date of Decision: August 22, 2019

Ansul

...Petitioner

Versus

Rani Devi and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ravi Dutt Sharma, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. The instant civil revision has been filed under Article 227 of the Constitution of India seeking to challenge the order dated 24.05.2019 passed by the Rent Controller, Kaithal, whereby the evidence of the petitioner has been closed by court order.

2. In brief, the facts are that a petition for ejectment was filed by the respondents before the Rent Controller, Kaithal against the petitioner herein. After the written statement was filed, issues were framed and evidence was led. Thereafter, the petitioner herein filed an application to lead additional evidence to examine Krishan Kumar as RW4. It was argued that it was necessary to examine Krishan Kumar, submitting him to be a co-sharer of the property. This application was contested and eventually allowed by the Rent Controller, Kaithal allowing the petitioner herein to

examine the said witness at his own responsibility, subject to payment of costs of Rs.1000/- to the opposite side. Pursuant to the said order, the matter was taken on 14.05.2019, on which date the witness was not present on account of being unwell, however, costs were paid and the case was adjourned for 17.05.2019 for evidence to be adduced in terms of order dated 04.05.2019. On 17.05.2019, witness was examined-in-chief by way of affidavit and cross-examination was deferred on his own request that he was unwell and the matter was adjourned to 24.05.2019. On 24.05.2019, the said witness did not put in appearance, which led to the impugned order being passed closing the evidence of the petitioner by court order.

3. Learned counsel appearing on behalf of the petitioner contends that the witness had put in appearance and it is only on account of his ill health that he was not able to appear on the subsequent date fixed for his cross-examination and, therefore, the petitioner would be put to a great hardship in case one more opportunity is not allowed to produce the said witness for cross-examination.

4. I have heard learned counsel for the petitioner and have gone through the case file.

5. Keeping in view the stand taken by the petitioner in his application for additional evidence, interest of justice requires that he should be permitted to examine the said witness in whole. Moreover, the opposite party can be compensated in the form of costs for the delay caused. It is stated at bar that the matter is now fixed before the Rent Controller, Kaithal for 26.08.2019. The Rent Controller, Kaithal is directed to grant a week's adjournment to the petitioner on 26.08.2019 to produce the aforesaid

witness for his cross-examination at his own responsibility. In case, the petitioner fails to produce the said witness on the adjourned date, his evidence be deemed to be closed. The Rent Controller is also directed to ensure that the said witness be cross-examined on the adjourned date, making it clear to the counsel for the respondents herein that in case, they fail to cross-examine the said witness on the adjourned date, his cross-examination shall be treated as Nil.

6. The instant civil revision stands disposed of *in limine* in the aforesaid terms, subject to payment of ₹5000/- as costs to be paid by the petitioner to the respondents before the Rent Controller, Kaithal on 26.08.2019.

August 22, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No