

CR-4989 of 2019

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

CR No.4989 of 2019
Date of decision: 22.08.2019

Joginder Pal

.....Petitioner

versus

Bhupinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. K.S. Dadwal, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Tenant through this revision has laid challenge to order dated 28.05.2019, whereby application of the respondent-landlord to prove 12 rent receipts by way of secondary evidence has been allowed by the learned Rent Controller.

Briefly, respondent-landlord filed eviction petition under Section 13 of the East Punjab Rent Restriction Act, 1949 for ejectment of the petitioner-tenant from the demised shop. During pendency of said eviction petition, respondent initially moved an application before the learned Rent Controller to direct the petitioner to produce original rent receipts issued by him in his favour from October, 1994 till August, 2010, which after contest and considering the stand of the petitioner in his reply that he was not having possession of any such rent receipt, was disposed of vide order dated 12.04.2019. Thereafter, respondent moved application seeking permission to prove 12 rent receipts by way of secondary evidence,

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respondent-landlord. After contest from the petitioner, learned Rent Controller vide impugned order permitted the respondent to produce said rent receipts allegedly executed by petitioner by way of secondary evidence.

Learned counsel for the petitioner relying upon ***Ram Karan Khichar v. Mangal Deep Cooperative House Building Society Ltd. Hisar and others***, 2015(48) R.C.R.(Civil) 924 (P&H), ***Pritam Singh and others v. Malkiat Singh and others***, 2010(56) R.C.R.(Civil) 665 (P&H), ***Amar Lal v. Sanjeev Arora and another***, 2017(4) PLR 82, ***Surinder Kumar v. Murari Lal***, 1993(2) R.R.R. 535 (P&H) and ***Smt. J. Yashoda v. Smt. K. Shobha Rani***, 2007(2) R.C.R.(Civil) 840 (S.C.) inter alia contends that in the civil suit, photocopies of the rent receipts were exhibited. Therefore, photostat copies, though were exhibited, could not have been permitted to be proved by way of secondary evidence inasmuch as in the eviction petition, respondent never pleaded that petitioner had ever issued any rent receipts. Therefore, learned Rent Controller taking into account that application of the respondent-landlord to prove rent receipts by way of secondary evidence was beyond pleadings, ought to have rejected the same.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant revision completely devoid of any merit for the simple reason that petitioner himself has exhibited those rent receipts in a suit filed by him against the respondent on the basis of which now the respondent wants to prove the same in eviction petition against the petitioner by way of secondary evidence. Therefore, petitioner is estopped by his own act and conduct to raise any objection in proving and exhibition of the same by way of secondary

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Even otherwise, learned counsel for the petitioner could not show as to what harm or prejudice is going to be caused to the petitioner due to proving of rent receipts by the respondent in a legal manner.

Facts and circumstances of the authorities aforesaid relied upon by learned counsel for the petitioner are completely distinguishable from the facts of the present case. Therefore, no benefit of the same can be given to the petitioner.

Dismissed.

(Ramendra Jain)
Judge

August 22, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No