

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

CR No. 5467 of 2019 (O&M)
Date of decision: 17.9.2019

Pawan Kumar @ Banwari

...Petitioner

Versus

Gori Shankar Kedia and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Virendera Rana, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

This petition under Article 227 of the Constitution of India has been filed seeking to challenge the order dated 19.8.2019, whereby an application for leading additional evidence filed the petitioner has been dismissed.

In brief, facts are that respondent No.1 herein filed a petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 for eviction of the petitioner and others, on the ground of personal necessity. During the course of the proceedings before the Rent Controller, the petitioner filed second application for leading additional evidence. In the application, it was stated by the petitioner that he does not want to produce any oral evidence rather he only wants to produce the documentary evidence in the shape of copy of the plaint, judgment and decree dated 22.4.2010 passed in case No. 106 of 2009 titled **Gajanand etc. Versus**

Bimla Devi.

The application was contested by the respondent No.1 herein on the ground that the application has been moved at this belated stage by the petitioner just to delay the early culmination of the proceedings. It was also argued that the petitioner has already availed many effective opportunities to lead evidence. Earlier when the case was fixed for rebuttal evidence in the month of April, 2018, the petitioner had already filed an application seeking permission to lead additional evidence, which was allowed. It was also argued that the documents now sought to be produced are irrelevant and inadmissible for the decision of the controversy involved in the instant case. Otherwise also, these documents were very well in the knowledge of the petitioner right from the very beginning. The Rent Controller, as already noticed, dismissed the application, giving rise to the instant revision.

Learned counsel appearing on behalf of the petitioner herein impugnes the order so passed stating that respondent No.1 has concealed the facts before the court that his adoption deed was not accepted by the Court in the previous litigation as is evident from copy of judgment Ex. D1, whereas at one point of time, respondent No.1 had asserted himself as adopted son of Balu Ram while making the statement before the court as PW1 and in his cross-examination, he clearly stated that his adoption deed was registered in Tehsil Bhiwani. In this view of the matter, the additional evidence sought to be produced by the petitioner was necessary for proper and effective adjudication of the case.

I have heard learned counsel for the petitioner and have also perused the impugned order as well as the documents annexed with the

revision.

The admitted position is that earlier also the petitioner had moved an application for additional evidence, after closure of the evidence of respondent No.1 and when the case was fixed for rebuttal evidence. The said application was allowed by the Rent Controller by order dated 19.4.2019 and this was the second application the petitioner has filed seeking permission to lead additional evidence in the shape of documents. The documents sought to be produced i.e. copy of the plaint, judgment and decree dated 22.4.2010 existed at the time of leading evidence by the petitioner and even before filing of the present ejectment petition as the instant ejectment petition was filed in the year 2015 and the documents sought to be produced pertain to the year 2010. These documents were very well in the knowledge of the petitioner when he had earlier filed an application for additional evidence, which was allowed on 19.4.2019. No reason, much less cogent reason is forthcoming as to why these documents were not produced earlier in evidence, which were very well in the knowledge of the petitioner.

Therefore, finding no merit in the instant revision, the same is dismissed.

17.9.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No