IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.5697 of 2019 (O&M)
Date of decision: 12.09.2019

Raman Kumar

.....Petitioner

versus

Ravinder Mahendru and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Akhilesh Vyas, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision under Article 227 of the Constitution of India, tenant has assailed order dated 27.08.2019 (Annexure P-1) of the Rent Controller, Amritsar, whereby his evidence was closed by Court order.

Learned counsel for the petitioner *inter alia* contends that application moved by the petitioner for summoning of witness since was allowed by the Rent Controller, therefore, evidence of the petitioner could not have been closed without examination of the witness for which his application was allowed. Rent Controller, before closing evidence of the petitioner by Court order ought to have adopted coercive methods to summon the witness in view of Order 16 Rule 10 of the Code of Civil Procedure, including issuance of his non-bailable warrants. No prejudice is going to be caused, if, by setting aside impugned order of the Rent Controller, petitioner is afforded opportunity to lead his complete evidence. In support of his contentions, learned counsel placed reliance on the

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judgments of this Court in ***Anil Kumar and another v. Tahir and others****, 2017(3) R.C.R.(Civil) 152*), ***Renu Bakshi v. Prem Parkash Sharma and others*** *2017(3) R.C.R.(Civil) 657* and ***Surinder Kapoor v. Gurdev Singh****, 2009(3) R.C.R.(Civil) 595.*

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 inasmuch as it is a glaring example of gross abuse of process of the Court.

No question of law much less substantial has been raised in this revision.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioners has not been able to show any such infirmities in impugned order, which is reproduced hereunder: -

> *"Raman Gupta, respondent has tendered into evidence copy of certificate of renewal of licence issued by Director of Health Department mark RX. RW14 Digambar Singh is present and examined. No other RW is present. Ld. Counsel for the respondent requested for adjournment. Perusal of the file reveals that the respondent has been granted 35 effective opportunities within the span of more than 33 months. On 23.07.2019, ld. counsel for the respondent made statement that he would conclude his evidence on the next date of hearing, failing which his evidence may be deemed to be closed and the case was adjourned to 13.08.2019 for remaining entire evidence of the respondent at own responsibility. On*

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13.08.2019, one witness was present and examined. The respondent did not close the evidence on that day and requested for adjournment which was granted taking into account the fact of Punjab Band Call.

Perusal of the file reveals that vide order dated 17.11.2016, the respondent was directed to file list of witnesses within 5 days failing which no assistance of the court would be granted in summoning of RWS. No such list of witness was filed within the prescribed period, though on 07.12.2016, list of witnesses was filed and the witnesses were summoned by the court as mentioned in the list of witness by taking lenient view. Vide order dated 06.12.2017, the respondent was granted opportunity to produce evidence at own responsibility by taking dasti summons. On 20.09.2017, the respondent was granted last opportunity to conclude his evidence.

Today again, Ld. counsel for the respondent has requested for adjournment but no plausible explanation has been put forth y him to adjourn the case further. This case pertain to the year 2014 and is old one. No ground is made out to adjourn the case further for evidence of the respondent. Accordingly, remaining evidence of the respondent is hereby closed by order.

Now, to come upon 10.09.2019 for rebuttal evidence if any and for arguments."

Perusal of the aforesaid order shows that despite affording 35 effective opportunities, petitioner was out and out to delay the eviction proceedings against him, may be with dis-honest intention to retain possession of the demised premises for a maximum period, which he would be able to manage and for that reason he went on seeking repeated adjournments, one after the other and got success in delaying the eviction petition against him for around three years. The application of the petitioner

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could not have been entertained for examination of some witnesses in addition to the list furnished by him on 07.12.2016, filed beyond the prescribed period. Around 20 months back on 06.12.2017, petitioner was granted opportunity to produce evidence at his own responsibility taking dasti summons. Prior to that he was granted last opportunity on 20.09.2017. Eviction petition against him was filed in the year 2014. More than around five years have elapsed, but the petitioner is enjoying the demised premises for no reasons, in case, he is finally ordered to be evicted from the demised premises by the Rent Controller.

The authorities referred to above by learned counsel instead of helping the petitioner go against him inasmuch as it has been held therein that discretion has to be controlled by settled proposition of law keeping in view the facts and circumstances of each case. In the instant case, circumstances mentioned above prove beyond any shadow of doubt that petitioner is not liable to be granted even a single opportunity considering the fact that he intentionally and deliberately tried his level best to cause delay in decision of the eviction petition against him.

The impugned order is perfectly legal and, thus, there is no scope for interference in the same.

Dismissed.

(Ramendra Jain)
Judge

September 12, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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