

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

**CR-7023-2019 (O&M)
Date of Decision : 06.11.2019**

Pardeep Kuamr

..... Petitioner

Versus

Chanderbhan

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Aayush Gupta, Advocate
for the petitioner.

RAMENDRA JAIN, J. (Oral)

Through this revision under Article 227 of the Constitution of India, the petitioner-tenant has laid challenge to order dated 25.09.2019 of the Rent Controller, whereby his oral request for exclusion of voluntary statement of respondent-landlord's witness Anil Kumar from his deposition, was rejected.

Briefly, respondent filed a petition under Section 13 of East Punjab Rent Restriction Act (in short 'the Act') for eviction of revisionist from the demised property, detailed in the headnote of the eviction petition, situated at Dakha-II, Tehsil and District Ludhiana, which upon notice to him was contested. After taking on record the written statement of petitioner-tenant, learned Rent Controller framed necessary issues.

Respondent-landlord in support of his case, examined his son Anil Kumar as PW2. In cross-examination to this witness, the petitioner, through his counsel, put a specific question “*Whether actual physical possession of the shop was given to your father at the time of execution and*

registration of sale deed?” to which he replied as under:-

“No. Volt. Gurmeet Singh orally stated that there is a tenant in the shop.”

Since, the above answer did not suit him, therefore, petitioner made a request to learned Rent Controller to exclude the aforesaid answer from the deposition of PW2 Anil Kumar, which was rejected vide impugned order dated 25.09.2019.

Learned counsel for petitioner referring to Sections 91 and 92 of the Indian Evidence Act, 1872 (in short “Evidence Act”), inter alia contends that any statement on oath, contrary to the written document has to be excluded from consideration in-as-much as in Evidence Act, there is no provision for voluntary statement. The volunteer reply of PW2 Anil Kumar ought to have been taken by him in his examination-in-chief.

Having given thoughtful consideration to the above submissions, this court finds the instant petition merits dismissal for the reasons to follow.

Proviso to Section 92 of the Evidence Act, permits to prove existence of any specific thing even inconsistent to the written document. Therefore, the argument raised by learned counsel for appellant that under Sections 91 and 92 of the Evidence Act, the learned Rent Controller was required to exclude voluntary statement of PW2 Anil Kumar, has no force.

PW2 Anil Kumar in his statement, did not add or subtract anything, rather only clarified/replied the specific question put to him by the petitioner. Therefore, the same cannot be excluded from his statement, simply because it does not suit to the petitioner.

The argument of learned counsel for respondent-landlord advanced before the Rent Controller was only for the sake of an argument

which is not required to be dealt with in the instant revision and permit the petitioner to take advantage of the same at the time of final disposal of rent petition.

In view of above factual and legal aspect, this court does not find any irregularity or illegality in the findings recorded by the learned Rent Controller.

Dismissed.

06.11.2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No