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

**CR-404-2021 (O&M)
Date of decision : 25.02.2021**

Shiv Kumar

.....Petitioner

Versus

Rajesh Bala

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Nitin Thatai, Advocate
for the petitioner.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

The present revision petition has been filed under Article 227 of the Constitution of India for quashing of the impugned order dated 09.02.2021 (Annexure P-6) passed by the Rent Controller, Ludhiana whereby the application filed by the petitioner under Order XI Rules 14, 15 and 18 of the Code of Civil Procedure, 1908 (in short 'CPC') for producing on record the document of title in respect of the demised premises, has been dismissed.

On 14.08.2017 the respondent filed an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against the petitioner seeking his eviction from House No.HL-119, PHB Colony, Jamalpur, Ludhiana on the grounds of arrears of rent, *bona fide* necessity and creating a nuisance. The petitioner put in appearance but did not file a

written statement. Instead he filed an application (Annexure P-2) under Order XI Rules 14, 15 and 18 CPC directing the respondent to produce on record the document of title in respect of the demised premises besides special power of attorneys if any or copies thereof, house tax and water charges bills. The respondent filed a reply (Annexure P-3) to the said application *inter-alia* raising a preliminary objection that the CPC was not applicable to proceedings under the Rent Act. The application (Annexure P-2) was dismissed by the Rent Controller vide order dated 19.07.2019 (Annexure P-4). The petitioner filed CR No.5041 of 2019 before this Court challenging the order dated 19.07.2019 (Annexure P-4). Vide order dated 26.08.2019 (Annexure P-5) this Court disposed off CR No.5041 of 2019 and set aside the order dated 19.07.2019 (Annexure P-4) and directed the Rent Controller to pass a speaking and well reasoned order afresh on the application (Annexure P-2) filed by the petitioner under Order XI Rules 14, 15 and 18 CPC. The Rent Controller heard the parties again and vide impugned order dated 09.02.2021 (Annexure P-6) dismissed the application (Annexure P-2). Aggrieved by the said order, the petitioner has approached this Court.

Learned counsel for the petitioner contended that the respondent has no right, title or interest in the demised premises and she is debarred from filing the ejectment petition. It is further the contention of learned counsel for the petitioner that since the document of title has a bearing on the present case, so its production and its inspection by counsel for the petitioner is essential and necessary. He placed reliance on the judgments of this Court in **“Desa Singh through LRs V/s Sukhraj Kaur and**

(36) RCR (Civil) 684 and “Sharvan Kumar V/s Sumeet Kumar Garg” 2002

(3) PLR 666.

Heard learned counsel for the petitioner.

The ejectment petition in the present case was filed by the respondent on 14.08.2017 and till the passing of the impugned order (Annexure P-6) on 09.02.2021, the petitioner had not filed his written statement. Thus, there was no written statement before the Rent Controller wherein the petitioner may have denied the title of the respondent or even denied the relationship of landlord and tenant between the parties. Instead of filing a written statement the petitioner filed the application (Annexure P-2) under Order XI Rules 14, 15 and 18 CPC for directing the respondent to produce on record the document of title in respect of the demised premises besides special power of attorneys if any or copies thereof, house tax and water charges bills. The Rent Controller, without there being on record any defence on the part of the petitioner, could not exercise the discretion available to him under Order XI Rule 14 CPC and direct the respondent to produce on record the document of title in respect of the demised premises besides special power of attorneys if any or copies thereof, house tax and water charges bills.

Order XI Rules 14, 15 and 18 CPC read as under:

“14. Production of documents - It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in

such manner as shall appear just.

15. Inspection of documents referred to in pleadings or affidavits - Every party to a suit shall be entitled at or before the settlement of issues to give notice to any other party, in whose pleadings or affidavits reference is made to any document, or who has entered any document in any list annexed to his pleading to produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice, in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

18. Order for inspection - (1) Where the party served with notice Rule 15 omits to give such notice of a time for inspection or objects to give inspection, or offers inspection elsewhere than at the office of his pleader, the Court may, on the application of the party desiring it, make an order for inspection in such place and in such manner as it may think fit:

far as the Court shall be of opinion, that it is not necessary either for disposing fairly of the suit or for saving costs.

(2) Any application to inspect documents, except such as are referred to in the pleadings, particulars or affidavits of the party against whom the application is made or disclosed in his affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. The Court shall not make such order for inspection of such documents when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.”

A perusal of Order XI Rule 14 CPC shows that it gives the Court a discretion in ordering the production of documents by any party to the suit. However, this discretion is to be exercised qua those documents which relate to any matter in question in such suit. In an ejectment petition the question of title of the landlord is not to be determined by the Rent Controller. It is well settled that a landlord under the Rent Act need not be the owner of the demised premises. Therefore, the demand by the petitioner in his application (Annexure P-2) for production of documents of title of the demised premises by the respondent has no bearing to the matter in question in the ejectment petition. The Rent Controller is not seized of a title suit. The Rent Controller in the impugned order Annexure P-6 has observed that “*The law on this point is settled that a tenant cannot deny the title of his landlord.*

If this is his version, he can very well plead that in his reply to the main

petition. This is not a title suit where both the parties are contesting the title to the demised premises. This is a mere eviction petition filed by petitioner claiming himself to be landlord of respondent. If respondent has to deny the title of the landlord, he can do so in his reply and it is not for the court to help the parties to create their evidence". It was further held that *"I am of the view that discretion given to the undersigned need not to be exercised in favour of respondent, at this stage. Neither it is expedient to do so nor it is just and relevant at this stage"*. Thus, in the opinion of this Court, when the petitioner has avoided filing a written statement for over three years and there is no denial by him that the respondent is his landlord, the Rent Controller has correctly exercised its discretion in not directing production of documents of title of the demised premises by the respondent. Even in his application (Annexure P-2) filed under Order XI Rules 14, 15 and 18 CPC the petitioner has not denied that the respondent is his landlord or that there is no relationship of landlord and tenant between the parties.

Further, the prayer under Order XI Rules 15 and 18 CPC made by the petitioner in his application (Annexure P-2) was also not maintainable. Order XI Rule 15 CPC makes it clear that only those documents can be inspected which are referred to in the pleadings or affidavits or those which have been entered in any list annexed to the pleading. The documents mentioned by the petitioner in his application (Annexure P-2) which are sought to be inspected are *"the document of title in respect of the demised premises besides special power of attorneys if any or copies thereof, house tax and water charges bills"*. There is no reference to these documents in the ejectment petition (Annexure P-1) nor are they

XI Rules 15 and 18 CPC could not have been invoked by the petitioner to seek inspection of documents not specifically referred to in the pleadings or affidavits of the respondent nor having been entered in any list annexed to the pleading of the respondent.

The judgements cited by the counsel for the petitioner relate to proceedings in a civil suit and not to proceedings under the Rent Act. It is well settled that the provisions of the CPC are not strictly applicable to proceedings under the Rent Act. The Rent Controller is not a Civil Court. It does have certain trappings of a court of law like the powers to summon and enforce the attendance of the witnesses, to apply certain principles like *res judicata*, and its order are to be executed like a decree. However, the Rent Controller is a *persona designata* under the Rent Act and acts as a *quasi judicial* tribunal to decide matters covered by the Rent Act alone. The principles regulating the procedure under the CPC are not strictly applicable to proceedings under the Rent Act. In the present case, the attempt by the petitioner is clearly only to delay and stall the proceedings in the ejectment petition.

After the dismissal of the application (Annexure P-2) by the Rent Controller vide the impugned order (Annexure P-6), the petitioner herein has filed his written statement on 22.02.2021 and issues have been framed. The said orders were downloaded from the website of the District Courts during the hearing of the matter. The order dated 22.02.2021 passed by the Rent Controller reads as under :

“Present: Sh.S.S.Heer, Adv, Counsel for petitioner.

Sh.K.R.Sikri Adv, Counsel for the respondent.

Written statement to the petition filed by respondent under protest. Relationship of landlord and tenant between the parties is denied by respondent. Accordingly, no occasion has arisen to assess the provisional rent. Heard. From the pleading of the parties, following issues are framed as under:

1. Whether there exists relationship of landlord and tenant between the parties as prayed for? OPA.

Consequential upon the finding of the above issue the remaining issues are framed as:

2. Whether the respondent is in arrears of rent alongwith house tax as alleged? OPA.

3. Whether the demise premises is bonafidely required by the petitioner for his own use and occupation? OPA

4. Whether respondent is a man of quarrel some nature and creating nuisance? OPA

5. Whether the present petition is not maintainable? OPR.

6. Whether this court has no jurisdiction to entertain and try the present petition? OPR.

7. Relief.

No other issue arises or pressed by the counsel for the parties. Now case is adjourned to 17.03.2021 for entire petitioner evidence on filing PF/DM/list of witnesses/copy etc within a week otherwise no assistance will be provided by the court.”

A perusal of the issues framed reveals that there is an issue framed regarding the relationship of landlord and tenant between the parties. This is an issue which the Rent Controller can determine in an ejectment petition under the Rent Act. Further, the order passed by the Rent Controller on 22.02.2021 also shows that no other issue arises or was pressed by the counsel for the parties.

In view of the discussion above, this Court finds no illegality or perversity in the impugned order (Annexure P-6) passed by the Rent Controller. There is no merit in this revision petition and the same is dismissed.

Dismissed.

**(ALKA SARIN)
JUDGE**

25.02.2021
Yogesh Sharma

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO