

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

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**Civil Revision No.788 of 2021 (O&M)
Date of Decision: March 26, 2021**

Shubham Sood

.....PETITIONER.

VERSUS

Pritam Kaur Aulakh

.....RESPONDENT.

CORAM:- HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Amit Sharma, Advocate
for the petitioner.

MAHABIR SINGH SINDHU, J.

Present petition is filed under Article 227 of the Constitution for setting aside the impugned order dated 22.03.2021 (P/3) passed by learned Rent Controller, Ludhiana, whereby request of petitioner to recall PW4-Pritam Kaur Aulakh/respondent for further cross-examination was declined.

It is contended by learned counsel for the petitioner that PW4 was examined through video conference on 18.02.2021 and on the same very day, she was cross-examined also, but due to lack of sufficient time, petitioner could not brief his counsel for the purpose of cross-examination of above witness, therefore, a grave prejudice is caused to him. Further contended that as per practice in the lower Courts, when examination-in-chief of a witness is recorded, then generally the case is deferred for cross-examination for some other day. Since in the present case, everything

happened on the same day, therefore, the petitioner could not get the proper chance to support his case.

Heard learned counsel for the petitioner and perused the paper book.

It transpires that an ejectment petition under Section 24 (3) of the Punjab Rent Act, 1995 (for short 'Act') was filed by sole respondent regarding house No.58-B Raj Guru Nagar, Ludhiana in the capacity of a Non-Resident Indian ('NRI'). PW4 was cross-examined on 18.02.2021 at length through video conference and she answered all the questions put forth on behalf of the petitioner.

Concededly, this Court, vide order dated 04.08.2020 passed in Civil Revision No.1832 of 2020, while taking into consideration the age of the respondent i.e. 79 years as well as her health problems, directed the learned Rent Controller to decide the ejectment petition within a period of three months.

It is also necessary to mention here that even a review application (RA-CR-128-2020) was also filed against the above order by present petitioner and a co-ordinate Bench of this court, while disposing off the same vide order dated 28.09.2020 clarified that period of three months be counted from the date when the normal functioning is resumed before the Court below.

There is no dispute that much prior to the date of concluding the testimony of PW4, the normal functioning has already started before the Court below and learned Rent Controller proceeded with the matter in compliance of the above orders of this Court, therefore, there is nothing

wrong while taking up the case on day to day basis.

It seems that petitioner filed the application for further cross-examination of PW4 just to prolong the eviction proceedings, while raising the grievance that he wanted to further cross-examine the witness on the following counts:-

- “A) Confront the signature & date on the endorsements on the copy of the rent deed.
- B) On the act regarding the renewal of her passport & to conceal the fact from the court.
- C) Regarding the documentation of permanent leaving USA & documents related to ban in USA.
- D) The facts whether PW-4 regarding the signing of rent agreement.
- E) The facts when the petitioner personally meet the respondent for giving the property on rent.
- F) Any other facts to be considered at the time of conducting the re-examination.”

Perusal of the impugned order clearly reveals that PW4 was duly cross-examined on all the points referred above and para 3 of the same being relevant is extracted as under:-

“3. Consideration head & file has been perused & reveals that the petitioner has been examined as PW4 on 18.02.2021 through Video Conferencing & applicant/respondent side has conducted her cross examination at length. As submitted by the Ld. Counsel for the respondent/petitioner, it is nowhere mentioned in the application that what kind of new facts or new development has surfaced in this petition regarding which the evidence of PW4 Pritam Kaur is required by calling her in the witness box for further cross examination. Even otherwise, all the questions

mentioned in Para No.2 from serial No.A to F have already asked & PW4 answered the same. So far the serial No.F is concerned, it is unending process, because there is no end of consideration of the facts of the case. Moreover, ***as per Section 137 of the Indian Evidence Act, “The re-examination shall be directed to the explanation of mattes (sic. matters) referred to in cross-examination and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.”*** So, keeping in view of the discussion made above, this Court is in the firm opinion that no ground is made out to call the petitioner to face further cross-examination. However, it appears to the court that the present application has been filed with ulterior motive just to delay the proceedings of time bound petition, when the petition is fixed for respondent evidence & respondent has already availed more than sufficient opportunities.”

Although learned counsel for the petitioner has raised the plea of general practice to adjourn the case for the purposes of cross-examination on some other day, but he has failed to show any breach of legal provision in this regard; rather the Act provides special provisions in favour of NRI for seeking ejectment on the grounds stipulated therein, therefore, the plea of petitioner is without any substance and liable to be rejected.

Even otherwise, this is not the case of the petitioner that any new fact(s) or development has occurred after cross-examination of PW4, therefore, in the absence of the same, her re-examination is not warranted.

In view of the facts and circumstances discussed above, this Court does not find any illegality or perversity with the impugned order

Article 227 of the Constitution. Consequently, there is no option except to dismiss the petition.

Ordered accordingly.

The above observations may not be construed as an expression of opinion on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

March 26, 2021

Sachin M.

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*