

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

CR-1618-2021(O&M)

Date of decision:-28.9.2021

Kavi Raj Vaid Beni Prasad Shastri

...Petitioner

Versus

Baldev Raj Jain and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Abhimanyu Kalsy, Advocate
for the petitioner.

Mr.Abhinav Gupta, Advocate
for respondent No.1.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

Aggrieved by the order dated 21.1.2020 and 12.2.2021
passed by Rent Controller, Ludhiana, the revisionist (tenant) - Kavi Raj
Vaid Beni Prasad Shastri (since dead), now represented by his legal
representative had brought the instant civil revision petition praying for
setting aside of the impugned orders and to allow the application dated
31.1.2020 to recall order dated 21.1.2020.

Briefly stated, the facts of the case as can be gathered from the record are that landlord Baldev Raj Jain (respondent in the present petition) had brought an ejectment petition against revisionist - Kavi Raj Vaid Beni Prasad Shastri seeking his ejectment from property bearing Unit No.B-IX-236, Kucha Lala Karta Ram near Ghas Mandi, Ludhiana on the ground of non-payment of rent and the demised property having become unfit and unsafe for human habitation.

On getting notice, the revisionist – tenant had put in appearance contesting the petition. Issues on merits were framed. The petitioner had produced his evidence. Thereafter, the case was fixed for evidence of respondent. However, revisionist – tenant had expired on 25.5.2017 and his son Vishav Vijay Sharma was brought on record vide order dated 20.11.2017. The case was fixed for evidence of respondent. However, on account of certain reasons, respondent could not conclude his evidence. On 21.1.2020 RW – Jiwan Modhi was present but his statement could not be recorded as counsel for the respondent was statedly busy in some other case in a different Court, therefore evidence of respondent was closed by Rent Controller, Ludhiana by order of the even date. The revisionist - tenant had moved an application on 31.1.2020 for recalling the order. However, that application was also dismissed. Therefore, the present revision petition has been filed.

Notice of the petition was issued to respondent No.1 - landlord, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

No doubt, the revisionist - tenant had been quite lax in producing his evidence inasmuch as despite availing of 29 effective opportunities, he could not conclude his evidence. Though a witness namely Jiwan Modhi was present in the Court on 21.1.2020 but counsel for the respondent did not turn up to examine him. Though such type of conduct of the counsel cannot be appreciated and no fault can be found with the approach of the Rent Controller, Ludhiana in closing the evidence of respondent by order. Nevertheless, it has to be kept in mind that rules of procedure are meant for advancing ends of justice and further the Courts are required to do substantial justice and not to get bogged down in technicalities. If the impugned order is allowed to stand, then revisionist – tenant would not be able to bring evidence in support of his claim. In that way, the Court may not be in a position to dispense justice. In my considered view, the ends of justice demand that one more opportunity should be granted to the revisionist – respondent to conclude his evidence, despite the fact that learned counsel for the respondent – landlord has vehemently opposed grant of any further opportunity to the revisionist.

Accordingly, the revision petition is allowed. The impugned orders dated 21.1.2020 and 12.2.2021 are set aside and revisionist - tenant is afforded one effective opportunity to conclude his entire evidence at own responsibility. Learned Rent Controller, Ludhiana shall fix a date for the purpose of recording evidence of revisionist – tenant on which date the respondent – tenant would cause appearance of all the remaining RWs in the Court. No further opportunity for the purpose shall be granted in

any case. For causing delay, the revisionist – tenant is burdened with Rs.20,000/- as cost to be paid to the landlord (herein respondent).

28.9.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No