

CR-457-2016 (O&M)

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

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CR-457-2016 (O&M)
Reserved on : 16.05.2022
Date of decision :26.05.2022

Munshi Ram

...Petitioner

versus

Vidya Devi and Another

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. S.K.Yadav, Advocate, for the respondents.

ALKA SARIN, J.

The present revision petition under Article 227 of the Constitution of India has been filed impugning order dated 05.01.2016 passed by the Rent Controller whereby the application for directing the respondents to produce relevant documents in their possession has been dismissed.

Brief facts relevant to the present *lis* are that the landlord-respondents filed an ejectment petition seeking eviction of the tenant-petitioner from the shop in question on the ground of bonafide personal necessity of the husband of landlord-respondent No.1 namely, Harish Kumar, who is stated to be unemployed.

The tenant-petitioner filed a reply stating therein that the said Harish Kumar, husband of landlord-respondent No.1, and his family members are infact members and owners in possession of many shops and commercial

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properties and that they are engaged in the business of property dealing. The husband of landlord-respondent No.1 - Harish Kumar - appeared as PW-1 as General Power of Attorney holder (hereinafter referred to as 'GPA') of the landlord-respondents and filed his affidavit in Court as Ex.PW-1/A. The GPA Harish Kumar was cross-examined. In the cross-examination suggestions were put to the GPA as to whether he was filing income tax returns. Various other suggestions were also given to the said GPA. Thereafter, an application was filed by the tenant-petitioner for directing the GPA to produce certain documents as mentioned in para 7 of the application which reads as under :

“7. That in view of the aforesaid facts the following documents are very material for the complete and just decision of the present case as they go to the root of the present case which are as follows:-

- (a) Permanent Account Number Card of PW-1*
- (b) Matriculation Examination Certificate of PW-1*
- (c) Income Tax returns along with statements of accounts of PW-1 pertaining to the last 10 years*
- (d) Income Tax returns along with statement of accounts of petitioner No.1*
- (e) Income Tax returns along with statements of accounts of petitioner No.2 pertaining to the last 10 years*
- (f) Income Tax returns along with statements of accounts of husband of petitioner No.2 pertaining to the last 10 years*

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(g) Income Tax returns along with statements of accounts of son and daughter in law of PW-1 pertaining to the last 10 years

(h) Original registered sale deeds along with annexed site plans bearing respective Nos.7098 dated 28.11.2011, No.4214 dated 02.01.2015, No.8526 dated 06.02.2012, No.7099 dated 28.11.2011, No.3151 dated 11.02.2010, No.3812 dated 18.01.2008.”

Reply was filed to the said application and vide the impugned order the said application was dismissed. The Rent Controller while dismissing the application held that the Court cannot assist the party in collecting evidence. It has further observed that the GPA, Harish Kumar, had already admitted the documents put to him during his cross-examination and that the tenant-petitioner was at liberty to collect the certified copies of the sale deed and other documents from the concerned departments and produce the same in his evidence. Aggrieved by the said order the present revision petition has been filed.

Learned counsel for the tenant-petitioner has contended that as per the provisions of the Order 11 Rule 14 CPC, it is incumbent on the respondent to produce the documents as demanded. The learned counsel for the tenant-petitioner has relied upon **Sharvan Kumar Vs. Sumeet Kumar Garg [2002(3) PLR 666]**, **M/s Paras Drugs & Chemical Industries & Ors. Vs. UCO Bank & Ors. [AIR 2001 Rajasthan 356]**, **New India Assurance Co. Ltd. Vs. Sumer Chand [2005(2) Civil Court Cases 183]** and **Desa**

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Singh through LR. Vs. Sukhraj Kaur [2019(2) PLR 715] in support of his arguments.

Per contra, the learned counsel for the landlord-respondents has argued that the documents that the tenant-petitioner wants to be got produced all pertain to the GPA and being a GPA holder he cannot be asked to produce the documents. It is further the contention of the learned counsel for the landlord-respondents that since the said documents were not necessary and relevant to the present *lis*, the application was rightly dismissed by the Rent Controller. Learned counsel for the landlord-respondents has relied upon **Ramesh Rani Gulati Vs. Narinder Kumar Gulati [2010(2) PLR 14]** and **Municipal Corporation Faridabad Vs. Dharambir [2013(26) RCR (Civil) 923]**.

Heard.

The controversy in the present case revolves around the fact that in an ejectment petition filed by the landlord-respondents on the ground of personal bonafide necessity of her husband, an application was moved by the tenant-petitioner for production of certain documents primarily income tax returns of the GPA holder. The relevance of the income tax returns in the present case, as argued by the counsel for the tenant-petitioner, are that since it has been stated in the ejectment petition that the husband of the landlord-respondent No.1 was unemployed hence it was necessary to produce the income tax returns. The tenant-petitioner has confronted the GPA holder when he stepped into the witness box with all the documents which are now sought to be produced. The Rent Controller has given liberty to the tenant-

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petitioner to obtain certified copies of the sale deeds that he seeks to rely upon and produce the same in his evidence. Qua the income tax returns the Rent Controller has rightly rejected the prayer. What the tenant-petitioner in the present case is wanting is the production of the income tax returns which pertain to the GPA holder. The present case is for ejectment of the tenant-petitioner on grounds of personal bonafide necessity. Whether the GPA holder i.e the husband of landlord-respondent No.1 is employed or unemployed and whether he is filing income tax returns or not would be of no significance. Under the Rent Act the Authorities are concerned with whether the premises are bonafidely required by the landlord for his personal bonafide need or for that of his family. The relevance of the documents especially the income tax returns eludes this Court. It is trite that what is required in law is that the Court below should record its satisfaction as to whether the documents are necessary or not.

In the present case a categoric observation has been made that the tenant-petitioner is trying to collect evidence through the process of the Court which cannot be allowed. Further, it has been observed that the documents put to the witness have already been admitted by him in his cross-examination and therefore the Rent Controller had given the liberty to the tenant-petitioner to collect the certified copies of the sale deeds and other documents from the concerned department and to produce them in his evidence. Still further, the documents being sought are not pertaining to the landlord-respondents in the present case but rather the said documents all pertain to the GPA holder who has appeared on behalf of the landlord-respondents. A Court would not

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embark on a roving and fishing enquiry in order to assist a party to collect evidence. The present petition is nothing but an endeavour to embark on an endeavour not relevant to the matter in dispute.

The judgments relied upon by the learned counsel for the tenant-petitioner would be of no avail to him inasmuch as in the said judgments also it has clearly been observed that the documents can be asked to be produced only if they relate to any fact in issue or relevant facts. However, if they are found not be relating to the question raised in the suit the application would be declined.

In view of the above, I do not find any merit in the present revision petition which is dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

26.05.2022
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(ALKA SARIN)
JUDGE

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