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

CR-4582-2017 (O&M)

Date of Decision : 29.08.2022

Gurvinder Singh

....Petitioner

VERSUS

Taranjit Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sharan Sethi, Advocate for the petitioner.

Mr. Raman Sharma, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present civil revision has been preferred under Article 227 of the Constitution of India against the impugned order dated 02.05.2017 whereby the application filed by the tenant-petitioner for impounding the original lease deed dated 05.08.2010 has been dismissed.

The brief facts relevant to the present lis are that the landlord-respondent filed an ejectment petition on the ground of non-payment of rent. The landlord-respondent led his evidence and relied upon the lease deed dated 05.08.2010 which was exhibited as Ex.P-1/A. At the time of exhibiting of the said document, no objection was raised by the tenant-petitioner qua the admissibility of the said document. Thereafter, after a period of 11 months, an application was filed by the tenant-petitioner for impounding the original lease deed dated 05.08.2010 on the ground that the said lease deed had been executed on insufficiently stamped paper and hence it was required to be impounded and deficient stamp duty was

required to be paid. The said application was contested by the landlord-respondent by contending that the lease deed was for a period of 11 months and hence not compulsorily registerable. It was further stated in the reply that the application was filed only to delay the proceedings and that the application had been filed after more than a year of the document having been exhibited. The Rent Controller vide the impugned order dated 02.05.2017 dismissed the said application as not maintainable and the case was fixed for evidence and final opportunity was granted to the tenant-petitioner to lead his evidence.

Learned counsel for the tenant-petitioner would contend that the document Ex.P-1/A could not have been exhibited in the evidence in view of the fact that the same was insufficiently stamped. In support of his argument the learned counsel has relied upon the judgment of Madras High Court passed in the case of **V.Ponnusamy Vs. N.Namis Dhas & Ors. [1998 (3) CivCC 377]** and the judgment of the Supreme Court passed in **M/s SMS Tea Estates Pvt. Ltd. Vs. M/s Chandmari Tea Co. Pvt. Ltd. [2012(1) RCR (Civil) 305]**.

Per contra, learned counsel for the landlord-respondent has contended that as per Section 29(c) of the Indian Stamp Act, 1899 the onus to pay the stamp duty was on the lessee. It is further the contention that at the time of exhibition of the said document no objection was raised qua the admissibility. Since no objection qua the admissibility was raised at the time of exhibiting of the document, the same cannot be raised at a later stage. In support of his argument, the learned counsel has relied upon **R.V.E. Venkatachala Gounder Vs. Arulmigu Viswesaraswami & V.P Temple & Ors. [2003 (4) RCR (Civil) 704]**.

Heard.

In the present case the lease deed in question is undisputedly for a period of 11 months. The same was led in evidence by the landlord-respondent and at the time of exhibiting of the said document and admittedly no objection was raised qua its admissibility. After a period of 11 months and after having availed numerous opportunities to lead evidence, the present application was filed for impounding of the lease deed on the ground that the same was insufficiently stamped. The Supreme Court in the case of **R.V.E Venkatachala Gounder** (*supra*) has held as under :

“17. The abovesaid facts have been stated by us in somewhat such details as would have been otherwise unnecessary, only for the purpose of demonstrating that the objection raised by the defendant-appellant before the High Court related not to the admissibility of the documentary evidence but to the mode and method of proof thereof.

18. Order 13 Rule 4 of the CPC provides for every document admitted in evidence in the suit being endorsed by or on behalf of the Court, which endorsement signed or initialed by the Judge amounts to admission of the document in evidence. An objection to the admissibility of the document should be raised before such endorsement is made and the Court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted

or not admitted in evidence. In the latter case, the document may be returned by the Court to the person from whose custody it was produced.”

The reliance by the learned counsel for the tenant-petitioner in the case of **M/s SMS Tea Estates Pvt. Ltd.** (*supra*) would be of no help inasmuch as the said judgment relates to a document which was compulsorily registerable which is not the case in the present petition. In the case of **V.Ponnusamy** (*supra*) it has been held that the Civil Court cannot compel the petitioner to pay the stamp duty penalty and only when the petitioner requires the document to be admitted in evidence the stamp duty/penalty needs to be paid. There can be no quarrel with the said proposition of law. However, the said judgment does not come to the aid of the petitioner. Further, the reliance on the case of **M. Mohan Vs. Smt. Maheswari Seth [1987 AIR (Delhi) 115]** is also of no help to the learned counsel for the tenant-petitioner and infact the same helps the landlord-respondent inasmuch as it has been held that the question of admissibility of being unstamped or insufficiently stamped needs to be adjudicated at the time of admissibility of document. In the present case admittedly no such objection was raised at the time of admission of the document.

In view of the discussion above, I do not find any illegality or infirmity in the impugned order passed by the Rent Controller. The present revision petition being devoid of any merits is dismissed. Pending applications, if any, also stand disposed off.

August 29, 2022
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(ALKA SARIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No