

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

**CR No.2110 of 2022 (O&M)
Date of Decision: 29.11.2022**

Ram Dass (deceased) through LR Rajiv Saini

..... Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.) and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rajan Bansal, Advocate
for the petitioner.

MANJARI NEHRU KAUL J. (Oral)

CM No.15265-CII of 2022

Prayer in this application is for placing on record copy of issues framed vide order dated 05.04.2016 as Annexure P-9.

For the reasons cited in the application, the same is allowed and copy of issues framed vide order dated 05.04.2016 is taken on record as Annexure P-9, subject to just exceptions.

CR No.2110 of 2022

Prayer in the present petition filed under Article 227 of the Constitution of India is for setting aside of the impugned order dated 09.02.2022 (Annexure P-8) passed by the learned Rent Controller, Bathinda, vide which the application of the petitioner-tenant for ascertaining the correctness of resolution dated 31.10.2014 and still further for taking action against the respondent for forging and fabricating different resolutions, was dismissed.

Learned counsel appearing for the petitioner-tenant

submits that the impugned order suffers from patent illegality and has been passed without appreciating the facts in their right perspective. He further submits that the respondent-landlord during the course of the proceedings before the learned Rent Controller has placed on record two resolutions dated 31.10.2014 (Annexures P-2 and P-3), which were exhibited as Annexures A-1 and A-4. However, a bare perusal of both the above-said resolutions, makes it abundantly clear that they were not identical to each other and even the attested copy, i.e., Exhibit A-4 did not correspond with the copy produced earlier as Annexure A-1.

Learned counsel thus submits that from the above facts and circumstances, it is evident that the aforesaid resolutions are forged and fabricated and since the eviction application has been filed on the basis of these resolutions, the correctness and authenticity thereof would go to the very root of the eviction proceedings initiated before the learned Rent Controller.

He, thus, vehemently prays that the learned Rent Controller be directed to ascertain the correctness and authenticity of the alleged resolutions dated 31.10.2014, failing which, the defence of the petitioner-tenant would be prejudiced.

I have heard learned counsel for the petitioner and perused the relevant material on record.

At the outset, it would be relevant to reproduce the issues framed by the learned Rent Controller vide order dated 05.04.2016 and the same reads as under:

- “1. *Whether the shop in question is bonafidely required by the applicant for its personal use and occupation? OPA*

- 2. *Whether the application has not been filed by any legally authorized person? OPR*
- 3. *Whether the applicant has no cause of action to file the present application? OPR*
- 4. *Relief.”*

The petitioner-tenant by way of application dated 31.10.2019 (Annexure P-6) has challenged the correctness of the resolutions annexed as Annexures P-2 and P-3. However, a perusal of the issues, particularly issue No.2 framed by the Rent Controller, which stands reproduced here-in-above, leaves no manner of doubt that the scope of the said issue No.2 is wide enough to cover the question *qua* the correctness or otherwise of the aforesaid resolutions. The onus to prove the said issue is on the petitioner-tenant, therefore, it would be for him to lead evidence in support of his averments and the Rent Controller cannot be expected to collect evidence on his behalf. The petitioner-tenant is seemingly trying to divert the eviction proceedings in an altogether different direction, which cannot be allowed.

The impugned order dated 09.02.2022 (Annexure P-8) thus, warrants no interference of this Court and the instant petition being devoid of any merit is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

29.11.2022
rittu

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No