

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

**CR-4677-2022
Date of Decision: 21.10.2022**

Neeraj

....Petitioner

vs.

Narender Chaudhary and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

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

Mr. Ajit Singh Lamba, Advocate,
for the caveator-respondent No.1.

HARKESH MANUJA J. (Oral)

By way of present revision petition, the petitioner has impugned the order dated 19.07.2022, whereby his right to file written statement has been closed.

The facts leading to the present revision petition are that an ejectment petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (as amended upto date) was filed at the instance of respondent No.1 against the petitioner as well as respondent No.2 regarding the tenanted premises being part of property bearing MCH No.B-IV-2, New property ID No.31C230U1 situated at Tilak Bazar, Inside Talaki Gate, Hisar. The aforesaid eviction petition was filed on 08.04.2021 on the ground of bonafide necessity of respondent No.1-landlord as well as his major son and daughter, besides the premises in question having become unfit and unsafe for human habitation. The petitioner appeared before the learned Rent Controller on 18.05.2022 through his Advocate, in pursuance to the service effected upon him and made a request for grant of

opportunity to file written statement and the matter was adjourned to 05.07.2022. On 05.07.2022, there was change of counsel from the side of the petitioner and one another opportunity was given to him for filing of his written statement and matter was adjourned to 19.07.2022. On the said date i.e. 19.07.2022, again no written statement was filed on behalf of the petitioner and accordingly his defence was struck off.

By way of present revision petition, challenge has been made to the aforesaid order, whereby his right to file written statement has been closed.

It has been submitted by learned counsel for the petitioner that a hyper-technical approach has been adopted by the learned Rent Controller while passing the impugned order as no sufficient opportunity has been afforded to the petitioner for filing his written statement. He also submits that passing of the impugned order has caused serious prejudice to the substantial right of the petitioner, as the same amounts to denial of an opportunity to defend his case as a tenant to the pleas raised by respondent No.1-landlord.

Mr. Ajit Singh Lamba, Advocate has put in appearance on behalf of respondent No.1-landlord being on caveat and submits that despite having been afforded sufficient opportunities to the petitioner to file his written statement, the petitioner has failed to do so only with an intent to delay the proceedings pending before the learned Rent Controller.

I have heard learned counsel for the parties and gone through the paper book. A perusal thereof shows that there has been some undue haste committed by the learned Rent Controller. Once as per the record, the petitioner had put in appearance on 18.05.2022, sufficient opportunity was required to be granted to him for the purpose of filing of his written

statement so as to defend the proceedings initiated at the instance of respondent No.1-landlord, which would have enabled him to put forth his defence so as to safeguard his substantial rights and contest the eviction petition filed against him on merits.

However, learned counsel for respondent No.1/landlord submits that his client-landlord happens to be a man of 53 years of age, seeking eviction of the petitioner as well as respondent No.2 on the ground of personal necessity of his grown-up children i.e. one son and one daughter, who are about to enter into their professional career and submits that considering the fact that the eviction petition was filed in April 2021 and even after the expiry of more than one year, it is still at the stage of filing of written statement, at the instance of tenants (the petitioner and respondent No.2), thus, the learned Rent Controller may be directed to expedite the proceedings. He also points out that the impugned order was passed on 19.07.2022, whereas, the present petition has been filed on 17.10.2022 and in between respondent No.1-landlord has got recorded the statement of his three witnesses and setting aside of the impugned order, at this stage, will result into de-novo trial.

Keeping in view the aforesaid facts and circumstances and to further the cause of justice so that substantial rights of the petitioner are safeguarded; rather than curtailed based on hyper-technical approach, the present revision petition is allowed and impugned order dated 19.07.2022 is hereby set aside. The petitioner be granted one more opportunity to file his written statement on 04.11.2022 i.e. the date already fixed before the learned Rent Controller which shall, however, be subject to payment of costs of Rs.20,000/- to be paid to the respondent/landlord.

However, considering the submissions made on behalf of respondent No.1, at this stage, I deem it appropriate to direct the learned Rent Controller to expedite the eviction proceedings pending before it.

Pending application(s), if any, shall also stand disposed of.

21.10.2022
sonika/sanjay

(HARKESH MANUJA)
JUDGE

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