

S. No.111

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

**CR No.5471 of 2022
Date of Decision:29.11.2022**

Durga Parshad

.....Petitioner

Vs.

Shree Sanatan Dharam Sabha

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Siddharth Gupta, Advocate for the petitioner.

DEEPAK GUPTA, J.

This revision is directed against order dated 04.11.2022 (Annexure P.1) passed by the learned Rent Controller, Bathinda, whereby application moved by the petitioner – tenant for recalling AW3 Rajinder Kumar Gupta Draftsman in main Rent Petition bearing No.RP/71/2015 titled as **Shri Sanatan Dharam Sabha (Regd.) Vs. Durga Parshad** was dismissed.

It is revealed that Rajinder Kumar Gupta, Draftsman was examined by the landlord (respondent herein) in the ejectment petition on 11.10.2018. During that cross-examination, it was disclosed by him that he (witness) did not know that if the Sabha (landlord) was to demolish the front shops, then bye-laws of the MC, Bathinda will allow to reconstruct the building or not. He had denied the suggestion that as per bye-laws of MC, Bathinda, construction is not permissible. However, later on, in another ejectment petition by the same landlord, against another tenant Yashpal Kapoor, same witness Rajinder Kumar, Draftsman was examined during which he admitted the suggestion that as per bye-laws of the Local Government, Department of Punjab, Rule 4.18 (e) Educational (Higher Secondary School) Building, maximum ground coverage shall not exceed 35% of the total area, site with maximum FAR of 1.1.1.50. He also admitted suggestion that 5 meter land should be left for open sky parking on the National

and State Highway and so on.

The petitioner- tenant moved an application to recall Rajinder Kumar Gupta, in view of the contradictory statement made by him in another rent petition. The said application has been dismissed after noticing the stand of the respondent that statement of witness Rajinder Kumar, Draftsman had been recorded on 11.10.2018. The ejectment petition was pending since 2015. Similar application earlier moved by counsel for the tenant so as to recall another witness Parmod Mittal, President of the Sabha had been dismissed on 02.08.2021 and now tenant wanted to recall another witness. It is submitted by counsel for the petitioner that respondent- landlord is the owner of number of shops and that the same witness Rajinder Kumar Gupta, Draftsman had made different statements and so his further cross-examination is necessary to elicit the truth.

On the query put forth by this Court, learned counsel informed that case is at the stage of evidence of the tenant i.e. petitioner herein.

After hearing learned counsel for the petitioner and perusing the record, I find absolutely no illegality or perversity in the impugned order. As the case is still at the stage of evidence of the tenant, he can very well produce certified copy of the statement of the concerned witness made in another case and the Court of Rent Controller then can evaluate the same in the light of the statement made in this rent petition as per law. There is no ground for any interference. As such, revision stands dismissed.

November 29, 2022
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No