

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

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CR-8076-2019 (O&M)
Date of Decision : 11.07.2022

Parkash Kaur (Deceased) through Legal Heir ...Petitioner

versus

Bhupinder Singh and Others ...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil Chawla, Advocate for the petitioner.

Mr. Divanshu Jain, Advocate for the respondents.

ALKA SARIN, J. (Oral)

The present revision petition has been filed challenging the impugned orders dated 21.05.2019 and 07.11.2019 whereby the application filed by the respondent-tenant for drawing up of a site plan of the property in question has been allowed.

Learned counsel for the petitioner would contend that the present ejectment petition has been filed on the grounds of arrears of rent and bonafide personal necessity. It is further the contention that the respondents by way of the present application are trying to create evidence through the Court. The respondents, if they so desire, are always at liberty to produce a site plan by way of evidence.

Per contra, the learned counsel for the respondents has relied upon the order passed by this Court in CR-8450-2018 decided on 14.12.2018 to contend that in a similar case a tenant had been permitted to

take a draftsman and a photographer to the building where the petitioner therein was a tenant.

Heard.

In the present case, the ejectment application is still at the stage of evidence of the petitioner-landlord. The respondent-tenant herein moved an application for appointment of a Draftsman to draw up a site plain of the whole property in question. Vide order dated 21.05.2019 the application was allowed. Thereafter, it is the case of the respondents, that the Draftsman was not allowed to enter the premises and hence the second application was moved which again was allowed vide order dated 07.11.2019. The said two orders have been challenged before this Court.

It is trite that the respondent-tenant would always be at liberty to file his own site plan at the time of leading evidence. However, at this stage the appointment of a Draftsman to draw up a site plan would rather be creating evidence in favour of the respondent-tenant which cannot be permitted in law.

The reliance by the learned counsel for the respondents on the order passed in CR-8450-2018 would also be of no avail as in the said case it was the petitioner therein who had filed an application for appointment of a Draftsman while leading his own evidence.

During the course of arguments, learned counsel for the petitioner had also handed over a paper-book of CR-8450-2018 to point out that earlier also similar application as moved in the present case was filed which stood dismissed by the Rent Controller and it was only later at the

time of evidence of the petitioner-tenant therein that the impugned order in the said case was passed.

In view of the above, the present revision petition is allowed and impugned orders dated 21.05.2019 and 17.11.2019 are set aside. The respondent-tenant would however be at liberty to file his site plan in accordance with law at the time of his evidence. Pending applications, if any, also stand disposed off.

July 11, 2022
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(ALKA SARIN)
JUDGE

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