

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

306

CR No.595 of 2020

Date of Decision : 27.02.2023

Amrik Singh

....Petitioner

VERSUS

Urmila Rani

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gautam Thapar, Advocate for the petitioner.

Mr. Amaninder Preet, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been filed challenging the order dated 04.12.2019 passed by the Rent Controller whereby the application filed by the tenant-petitioner for leading additional evidence has been dismissed.

The brief facts relevant to the present *lis* are that the landlord-respondent filed a petition for ejectment under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the tenant-petitioner from a shop situated at Ramgarhia Gurdwara to Satte Wala Bridge Road, Arya Samaj Block, Dhuri within Municipal Limits Dhuri. The tenant-petitioner took a specific stand in the written statement that there were other non-residential properties owned by the landlord-respondent and those were more convenient to start a business for her son.

After availing several opportunities, on 12.09.2019 the following order was passed :

“RW-2 present and examined completely. It is observed that even on the last adjournment the learned counsel

for the respondent had sought last and final opportunity. The same was granted in the interest of justice. Even, today learned counsel for the respondent has requested that one further opportunity may kindly be given. Keeping into account of the aforesaid submissions, one further last and final opportunity is granted to the respondent, subject to costs of Rs.1,000/- to be paid to opposite party. Now, to come up on 01.10.2019 for remaining evidence of the respondent.”

Thereafter, on 01.10.2019 the following order was passed :

“Costs not paid, in this regard statement of Sh. P.K. Mittal, Advocate recorded. Sh. Beghel Singh, Advocate has tendered document as Mark-X and closed the evidence on behalf of respondent. Now, case stands adjourned to 15.10.2019 for rebuttal evidence, if any and addressing for arguments.”

At the stage of rebuttal evidence, an application was filed by the tenant-petitioner for permission to prove the rent note dated 21.03.2007. A reply was filed to the said application. Vide the impugned order dated 04.12.2019 the said application has been dismissed. Aggrieved by the same, the present revision petition has been filed.

Learned counsel for the tenant-petitioner would contend that the tenant-petitioner wanted to prove the rent note to show that there were other properties in possession of the landlord-respondent and that the property qua which the rent note dated 21.03.2007 has been executed was got vacated

during the pendency of the ejectment petition and hence it was necessary to prove on record the rent note.

Per contra learned counsel for the landlord-respondent has contended that there is not a word in the application as to any ejectment application against Dr. Maninder Singh Dhaliwal having been decided during the pendency of the present ejectment petition. Learned counsel for the landlord-respondent has further contended that the rent note sought to be relied upon is dated 21.03.2007 and the present ejectment petition was filed in 2017 and that no reason is forthcoming for not having produced the same earlier.

Heard.

In the present case, though an argument has been raised by learned counsel for the tenant-petitioner that during the pendency of the ejectment petition an eviction order was passed against Dr. Maninder Singh Dhaliwal, one of the tenants of the landlord-respondent, however, no such facts are forthcoming in the application filed for leading additional evidence. In fact the said application is totally bereft of any reasoning. No reason is forthcoming for not having produced the rent note dated 21.03.2007 at an earlier stage. There is not a word regarding due diligence having been exercised by the tenant-petitioner. Further, the tenant-petitioner had specifically taken a stand in his written statement regarding the fact that the landlord-respondent had other commercial properties and hence it was incumbent upon the tenant-petitioner to have proved the said fact by leading cogent evidence. Having failed to do so after availing numerous opportunities and after closing his evidence and also not paying the costs

imposed vide order dated 12.09.2019, there is no ground to permit the present application for leading additional evidence. The application is nothing more than a delaying tactic.

In view of the 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 accordingly dismissed. Pending applications, if any, also stand disposed off.

27.02.2023
jk

(ALKA SARIN)
JUDGE

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