

CR-1852-2023 (O&M)

123

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1852-2023 (O&M)

Date of decision: March 23, 2023

Bhagwan Dass Jindal

....Revisionist

versus

Shree Sanatan Dharam Sabha (regd.) Bathinda and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Harpinder Singh Jalal, Advocate for revisionist.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 14.03.2023 passed by learned Rent Controller, Bathinda, whereby, evidence of revisionist/tenant, was closed by Court order.

2. Learned counsel for petitioner would contend that respondent/landlords filed an eviction petition against revisionist/tenant *qua* Shop No.20 MR situated at the Mall Road, Opposite Gole Diggi Market, Bathinda on the ground of non-payment of House Tax and Service Tax that accrued against said shop in question. Respondent/landlords took four years with unlimited opportunities and as such closed evidence in affirmative on 06.03.2020. Thereafter, case was adjourned to 20.03.2020 for evidence of revisionist/tenant. Revisionist moved an application for production of documents on 12.09.2022. No reply was filed and on 12.01.2023, learned counsel for landlords made a statement that he does not want to file reply and case was adjourned for arguments on the application. On 14.03.2023, RW1-Raman Kumar was examined and learned counsel for revisionist/tenant requested for an adjournment for examining rest of the witnesses since he was engaged as a counsel. Learned Rent Controller refused to accede to the request and closed the evidence of revisionist/tenant by order.

CR-1852-2023 (O&M)

3. Given the nature of order being passed, there is no necessity to issue notice to respondent/landlords, as no serious prejudice would be caused to them. Notice to respondents is thus dispensed with.

4. I have heard learned counsel for revisionist and perused the case file.

5. Perusal of learned trial Court's record as appended with revision petition herein reveals that reply to the ejectment petition was filed somewhere on or around 30.09.1996 and thereafter, issues were framed and respondent/landlords took almost four years to conclude evidence and finally same was closed on 06.03.2020. It was around that time that global pandemic struck and the entire working came to standstill including those of the Courts and no hearings took place. Even on resumption of work, Courts were working under certain restrictions and only urgent matters were being taken up and evidence were not being recorded. Naturally said period of delay cannot be attributed to revisionist/tenant. Thereafter, it appears that an application was preferred by revisionist/tenant for production of certain documents which were stated to be necessary before adducing his evidence. Order sheet of learned Rent Controller below reflects that said application remained pending, during which time, proceedings were simultaneously being adjourned for evidence of revisionist/tenant. In the process, learned Rent Controller seems to have got over-swayed with the fact that while application for production of documents was pending for hearing, revisionist did not adduce his evidence. Learned counsel for the revisionists submits that he had acted under the advice believing it to be *bona fide* that until application is decided, it would not be in his interest to proceed with trial. Finally, application for production of documents was disposed of on 20.01.2023. Thereafter, only one opportunity was given to revisionist/tenant, when one witness RW1-Raman Kumar was examined and no further opportunity was given and evidence was closed vide impugned order by learned Rent Controller.

CR-1852-2023 (O&M)

6. Rules of procedure are handmaid of justice. They cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases by adducing evidence ought not to be taken away by the Court except in a case of their deliberate omission/failure to produce evidence more so if the other side can be compensated by costs. Prejudice would indeed be caused to revisionist herein, unless afforded an opportunity to adduce evidence. Trial in ejectment petition may lead to unjust consequences in the absence of an opportunity to the revisionist/tenant to lead evidence.

7. In the peculiar circumstances, taking entirety of the matter into consideration, in the interest of justice, I deem it appropriate to grant one more opportunity to revisionist/tenant to lead evidence, subject to payment of costs of Rs.7,000/-and subject of-course to discretion of learned Rent Controller to further grant opportunity, in case it so desires depending upon exigencies of work before it. Costs shall be paid to respondents herein/landlords. Impugned order is set aside and the revision petition is allowed accordingly, dispensing with notice to respondents.

8. Disposed of, accordingly.

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

(ARUN MONGA)
JUDGE

March 23, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No