

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

(121)

**CR-1406-2022 (O&M)
Reserved on 29.09.2023
Date of Decision 06.10.2023**

Subhash Chander

.....Petitioner

Versus

Mange Ram and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ajay Jain, Advocate, for the petitioner.

Mr. Sudhanshu Makkar, Advocate, for the respondents.

HARKESH MANUJA, J.(ORAL)

1. By way of present revision petition, challenge has been laid to an order dated 31.03.2022 passed by the Rent Controller at Hisar, whereby, an application filed at the instance of petitioner-tenant as regards serving of interrogatories upon the respondents-landlord stands rejected.
2. Briefly stating, the respondents-landlord filed an eviction petition qua the demised shop bearing SCF No.91-1B Scheme No.1, Ground floor, Rajguru Market, Hisar, District Hisar against petitioner-tenant on the ground of *bona fide* necessity while alleging that the respondents were owners of the premises in question by virtue of sale deed dated 23.01.2015 got executed from its previous owner-Suresh Kumar.
3. Upon notice, the petitioner-tenant appeared and contested the eviction petition while submitting that the sale deed dated 23.01.2015 on the basis of which the respondents-landlord were claiming themselves to be the owners of the property in question was in fact a sham transaction, based on collusion between the respondents-landlord as well as their predecessor-in-interest, namely, Suresh Kumar and the same was executed merely for the

purpose of seeking eviction of the petitioner-tenant from the demised premises.

4. Issues in the present eviction petition were framed on 05.04.2017; Respondent No.2-landlord Kulbir Singh appeared as PW-1 and tendered his affidavit as Ex.PW1/A on 04.05.2017. In the meantime, an application seeking amendment of written statement to the eviction petition was filed on behalf of the petitioner-tenant and cross-examination of PW-1 remained deferred.

5. On 17.08.2019 while the proceedings were fixed for cross-examination of PW-1, petitioner-tenant filed an application before the Rent Controller seeking leave to deliver interrogatories for examination of respondents-landlord. The relevant extract from the said application is reproduced hereunder:-

“Interrogatories on behalf of above mentioned respondent (applicant) for the examination of petitioners are as under:-

- (i) Whether the sale consideration was given in cash or through cheque?*
- (ii) From which bank money was withdrawn for payment to Suresh Kumar.*
- (iii) Give the details of account number and name of bank from where the money was withdrawn.*
- (iv) When the deal qua sale and purchase of shop in question was entered and who was the property dealer/broker who got the deal settled.*
- (v) When the agreement to purchase this property was scribed, how much amount of earnest money was paid under the agreement and who were the attesting witnesses of the said agreement.*
- (vi) Who purchased the stamp paper for getting the sale deed of this shop in question prepared and from whose account the payment for purchase of stamp paper was withdrawn.*

Kindly provide the detail of the bank account and bank name.

- (vii) What was the reason of mentioning qua delivery of possession of vacant shop to the purchaser in the sale deed when the possession of the shop in question was already with the respondent tenant.*
- (viii) When the permission to transfer the shop in question was obtained and when the names of alleged purchasers/petitioners were got incorporated in the records of Hisar Improvement Trust, Hisar.*
- (xi) Why this shop has not been transferred by the petitioners in their names in the Property Tax Records of Municipal Corporation, Hisar.*
- (x) The detail of receipt number and date of deposit of property tax or the mode of payment of the same to Municipal Corporation, Hisar qua the shop in question by the petitioner.*

Both the petitioners are required to answer the interrogatories.”

6. The aforesaid application submitted by the petitioner-tenant was opposed at the instance of respondents-landlord having filed reply to the same.

7. The Rent Controller vide its order dated 31.03.2022, dismissed the application filed at the instance of petitioner-tenant. Impugning the said order, learned counsel for the petitioner submits that in the wake of specific plea having been raised at the instance of petitioner-tenant as regards the validity of sale deed dated 23.01.2015, got executed in favour of respondents-landlord, by stating it to be a sham transaction, the interrogatories sought to be served upon the respondents-landlord by the petitioner-tenant surrounding the said sale deed dated 23.01.2015 were relevant for the purpose of adjudication of the case in hand and were thus, required to be allowed.

8. On the other hand, learned counsel for the respondents-landlord submits that by way of serving the interrogatories, there was an attempt on the part of the petitioner-tenant to go for a fishing enquiry in the matter as the interrogatories sought to be served upon respondents-landlord could very well be put to the petitioner-tenant during his cross-examination. He further submits that once the discretion was exercised by the Rent Controller while declining the prayer made by the petitioner-tenant as regards serving of interrogatories upon respondents-landlord, the same was not required to be interfered in the limited revisional jurisdiction vested with this Court.

9. I have heard learned Counsel for the parties and gone through the paper book. I am unable to find merits in the submissions made on behalf of the petitioner.

10. In the facts and circumstances of the present case, the defence of the petitioner to a large extent revolves around the genuineness of the sale deed dated 21.01.2015. Although the interrogatories sought to be served in the present case relate to the issue of valid execution of the aforementioned sale deed, yet the same may not be relevant being based on the questions which could easily be put to PW1-landlord who has already tendered affidavit of examination as witness and is awaiting his cross-examination for the past more than six years. In fact, the nature of interrogatories is purely as of cross-examination which have rightly been declined. In this way, the petitioner is trying to call upon the respondents-landlord to open up and disclose in advance their entire ocular as well as the documentary evidence which they intend to lead in support of their pleadings which cannot be permitted as it may cause prejudice to the respondents.

11. Above all, one of the respondents-landlord furnished his affidavit of examination while appearing as PW1 on 04.05.2017, whereas the

application in hand seeking serving of interrogatories was filed on 17.08.2019 i.e. two years after the affidavit was tendered. Apparently, the Information sought can easily be elucidated through cross examination as otherwise in the facts of the present case the proceedings qua interrogatories is unnecessarily delaying the eviction proceedings which are pending since 2016 and are at initial stage of cross examination of witnesses of respondents-landlord.

12. In view of the discussion made hereinabove and in the facts and circumstances of the present case, the discretion exercised by the rent controller cannot be termed to be arbitrary or perverse. Therefore, the impugned order warrants no interference in the revisional jurisdiction of this Court, thus, the present revision is dismissed.

13. Considering the fact that the proceedings are pending before the Rent Controller for the past more than seven years and are still at the initial stage, the Rent Controller is requested to expedite the same.

14. Pending applications, if any, stand disposed of.

(HARKESH MANUJA)
JUDGE

06.10.2023
anil

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