

CR-3580-2023

-1-

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

114

CR-3580-2023

Date of decision : 03.07.2023

Varinder Singh

..... Petitioner

Versus

Surekha Kumari

..... Respondent

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner.

AMARJOT BHATTI J. (ORAL)

Varinder Singh through GPA Holder Rupinder Kumar Grewal filed revision against the impugned order dated 12.04.2022 passed by learned Rent Controller, Jalandhar in a case titled 'Surekha Kumari Vs Varinder Singh', bearing No. Rent/73/2017 (Annexure P-22), whereby the right of the petitioner to cross-examine the plaintiff witness has been treated as nil by the learned Rent Controller.

2. It is argued that the landlady has filed Rent Petition No. 73/2017 under Section 13 of East Punjab Urban Rent Restriction Act, seeking eviction of the present petitioner/tenant from shop bearing No. 108 situated at Defence Colony market, Jalandhar. The copy of petition is Annexure P-1. The notice was served upon the petitioner/tenant and the written statement filed by him is Annexure P-2. The rejoinder was filed on 17.05.2018, Annexure P-3 and after framing of issues, the case was fixed for petitioner's evidence. The statement of Manohar Lal PW-1 was recorded in examination-in-chief on 18.02.2019.

Thereafter, the case was adjourned from time to time. The copies of interlocutory orders passed in the rent petition are Annexures P4 to P-22. Ultimately, the cross-examination of Manohar Lal was treated as nil. Infact, the present petitioner has never misused the accommodation granted by the learned Court below. The witness could not be cross-examined due to unavoidable circumstances. It is argued that the petitioner will suffer great loss in case he is not granted opportunity to cross-examine the witness Manohar Lal PW-1. It is prayed that in the interest of justice, he may be granted one opportunity to cross-examine Manohar Lal PW-1. Hence, the present revision.

3. I have considered the stand taken by the learned counsel for the petitioner and have gone through the interlocutory orders passed by the learned Rent Controller from time to time. The perusal of interlocutory order dated 18.02.2019, Annexure P-4 shows that Manohar Lal PW-1 was present in the Court for cross-examination but he could not be cross-examined as learned counsel for respondent was not available. The perusal of interlocutory orders shows that the present petitioner was given as many as nine opportunities to cross-examine the witness but the counsel failed. Even the cost imposed by the Court concerned was not paid. Ultimately, by passing the impugned order dated 12.04.2022, the cross-examination of Manohar Lal PW-1 was treated as nil.

In the present rent petition, Manohar Lal PW-1 is a material witness being husband of petitioner Surekha Kumari. The case is still pending before the learned Rent Controller for adjudication. In case the present petitioner is not granted opportunity to cross-examine Manohar Lal PW-1, the case of present petitioner will be adversely effected. Even otherwise, it is in the interest of justice that both the parties are given opportunity to lead their evidence completely and

CR-3580-2023

-3-

then it should be decided on merits. No doubt, there is a delay on the part of counsel for the present petitioner in cross-examination of Manohar Lal PW-1. The record shows that the counsel for the present petitioner was given number of opportunities to cross-examine the witness but he failed. The delay on the part of present petitioner can be compensated by imposing cost on the present petitioner. Even otherwise, no purpose would be served by serving notice to the respondent as it will result into unnecessary delay and it will further increase the burden of litigation expenditure on the landlady. Considering all the aspects of the present case, the present revision is accepted. The impugned order dated 12.04.2022 passed by learned Rent Controller, Jalandhar, Annexure P-22 is set aside, subject to payment of cost of Rs. 15,000/- to the landlady. The present petitioner Varinder Singh would be granted only one effective opportunity to cross-examine Manohar Lal PW-1.

The revision is accordingly, disposed of.

(AMARJOT BHATTI)
JUDGE

03.07.2023
lalit

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No