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

CR-4999-2023

Date of Decision:- 25.09.2023

AMARJIT SINGH

...Petitioner

Vs.

PAWAN KUMAR CHOPRA AND OTHERS

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Prateek Sodhi, Advocate and
Mr. Manoj Singla, Advocate for the petitioner.

AMARJOT BHATTI, J. (Oral)

1. The petitioner Amarjit Singh has filed the instant civil revision under Article 227 of the Constitution of India for setting aside the impugned order dated 02.08.2023, Annexure P-6, whereby the learned trial Court has wrongly dismissed the application filed by the petitioner seeking direction to the respondents to allow the petitioner and the Draftsman-cum- Photographer to enter the commercial property owned by the respondents to prepare the site plan for complete adjudication of the case.

2. Learned counsel for the petitioner argued that Pawan Kumar Chopra and others i.e. the respondents in the present petition filed

ejectment application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (as amended upto date) for the ejectment of respondents from the shop at the ground floor forming part of building No.1901/5/12 MCA, measuring 23' length, 8 ½' width situated at Bazar Chowk Baba Sahib, Amritsar detailed in the petition. Copy of the rent petition dated 27.03.2019 is Annexure P-1. The notice was served upon him and he had filed his written reply dated 23.09.2019, Annexure P-2. The replication, Annexure P-3, was filed and thereafter issues were framed. The landlord/respondents in this petition examined six witnesses and closed the evidence and thereafter the case was fixed for the evidence of tenant/petitioner. He filed application dated 09.07.2023 seeking directions to the landlord that the tenant along with the Draftsman-cum-photographer may be permitted to enter the commercial property owned by the landlord. The said application is Annexure P-4. The application was contested by the respondents/landlord by filing reply, Annexure P-5, and the said application was declined by passing impugned order dated 02.08.2023 which is Annexure P-6. In-fact the landlord has got other commercial property in their possession in the same building and in order to establish this fact the application was filed for permitting the tenant along with Draftsman- cum- Photographer to enter the other commercial premises in exclusive possession of the landlord. However, the learned Rent Controller while disposing of the application vide order dated 02.08.2023 observed that the Court cannot help the tenant to create evidence and he could prove the stand taken by the him in the written reply by other means and ultimately the application was declined. It is argued that the respondents/landlord in their ejectment application has wrongly

pleaded that they need the shop in question for running their own independent business or that they do not own and possess any other shop nor they have vacated the same within the urban area of Amritsar without any reasonable cause. In-fact, they are in possession of other commercial property which has been concealed by the respondents/landlord. Therefore, in order to decide the matter in controversy the appointment of Draftsman-cum-Photographer to prepare the site plan of the other premises which are already in the possession of the respondents/landlord is necessary. Learned counsel also pointed out that in similar cases, the application filed by the tenant to permit the Draftsman and Photographers to visit the other premises of landlord was allowed by the Coordinate Bench in CR-8450-2018 titled as Baldev Raj Vs. Deepak Bhandari & Ors. It is prayed that the impugned order dated 02.08.2023 may kindly be set aside and the application preferred by the petitioner – tenant may be allowed as prayed for.

3. I have considered the arguments advanced before me by learned counsel for the petitioner. Considering the documents already on record, in my opinion, no purpose would be served by serving notice to the respondents as it will further lead to delay and unnecessary litigation expenditure for the landlord/respondents. The copy of the ejectment application filed by Sh. Pawan Kumar Chopra and others seeking ejectment of the tenant Amarjit Singh is Annexure P-1. Perusal of this petition shows that as per para No.3 (ii) it is alleged that shop is required bonafide by the applicants/landlord, by further alleging that they are not having any independent shop in their possession. In this paragraph the landlord has explained the premises which are in their possession and the

work which is being carried out in the same. It is also mentioned regarding the profession of the landlord. The ejectment petition is contested by the present petitioner/tenant denying the bonafide need of the landlord regarding the shop in question. At present the case is fixed for evidence of the present petitioner – tenant. It is rightly held by the learned Rent Controller that the tenant can prove the stand taken by him in the written reply by other means. The petitioner cannot take assistance of the Court to create evidence. Moreover, the Draftsman or a Photographer can not say anything about the ownership of other premises allegedly in possession of the respondents/landlord. Therefore, considering the nature of litigation, it was rightly held by the Rent Controller that no direction can be given to the Draftsman or Photographer to enter the premises regarding which there is no evidence that the same are owned or possessed by the said landlord. In-fact the petitioner/tenant can lead independent oral as well as documentary evidence to prove the stand taken by him in the written reply. I do not find any force in the arguments advanced by learned counsel for the petitioner that a Coordinate Bench of this Court in CR-8450-2018 (supra) has allowed the Draftsman and a photographer to visit the site to enable him to lead evidence about the adequacy/inadequacy of the area, as the facts and circumstances of each case are to be considered independently. Therefore, on the basis of aforesaid order, it cannot be said that this civil revision has to be accepted.

With these observations, I do not find any reason to interfere in the impugned order dated 02.08.2023 passed by learned Rent Controller,

Amritsar and the same is, accordingly, upheld. Resultantly, the civil revision filed by the petitioner is declined.

25.09.2023
snd

(AMARJOT BHATTI)
JUDGE

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