

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

CR-6389-2023

Date of Decision: 02.11.2023

NITIN KHOSLA (NOW DECEASED) THROUGH LR

..... PETITIONER

VS

HARNARAIN SINGH SEKHON AND ANOTHER

.... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Atamjit Singh Thind, Advocate for the petitioner.

Mr. JPS Sidhu, Advocate for the respondents/caveators.

GURBIR SINGH, J.

1. This petition is filed under Article 227 of Constitution of India for setting aside the order dated 16.08.2023 (Annexure P-8) passed by the learned Rent Controller, Patiala in a Rent Petition No.909 of 2013 whereby evidence of respondent (petitioner herein) is closed by order.

2. Brief facts of the case are that rent petition was filed by the respondents for ejectment of the petitioner/tenant from the demised premises. The petitioner was on death bed for long time and his evidence was closed vide order dated 04.08.2022 by the learned Rent Controller. Against the said order, the petitioner preferred revision petition i.e. CR No.3180 of 2022 before this Court, however, during pendency of

said revision petition, he passed away on 18.11.2022. An application i.e. CM-8178-CII-2023 was moved by Munish Khosla, brother of petitioner Nitin Khosla, to bring him on record as his legal representative. This Court, vide order dated 04.05.2023 (Annexure P-2), allowed said application as well as the revision petition and two effective opportunities were granted to the petitioner to lead and conclude his evidence. The operative part of said order reads as under:-

“ Consequently, the petition is allowed and the impugned order dated 04.08.2022 (Annexure P-7) is set aside. The petitioner shall be afforded two effective opportunities to conclude his evidence. The matter is stated to be listed on 24.07.2023. The petitioner may lead and conclude his evidence on that date or within a period of one month thereafter. The trial Court is directed to conclude the trial expeditiously and preferably within a period of four months from the date of conclusion of the evidence of the petitioner.”

3. On 24.07.2023, an application was moved by the petitioner before the learned Rent Controller to bring him on record as LR of deceased-Nitin Khosla, which was earlier opposed but while giving reference of the High Court order dated 04.05.2023 that impleadment has been allowed, said application was allowed vide order dated 28.07.2023. Thereafter, the case was adjourned to 11.08.2023 for leading evidence of the petitioner. On that day, petitioner has not led any evidence and application was moved for summoning the witness and for depositing the diet money. The same was allowed and the case was adjourned to 16.08.2023 for leading evidence. 12.08.2023, 13.08.2023 and 15.08.2023 were holidays.

4. Learned counsel for the petitioner submits that although this Court granted two effective opportunities to lead the evidence but proper opportunity was not granted to the petitioner to lead evidence. He further submits that the petitioner shall produce entire remaining evidence at his own responsibility. He will take *dasti* summons to produce the witnesses at his own responsibility if one opportunity is granted to him.

5. Notice of motion.

6. Mr. J.P.S. Sidhu, Advocate has caused appearance on behalf of the respondents/caveators. He has submitted that petitioner is not leading evidence and he is delaying the case on one pretext or the other. He has further submitted that sufficient opportunities had already been granted to the petitioner to lead evidence, so he is not entitled for any further opportunity.

7. I have heard the submissions of the learned counsel for the parties.

8. Earlier, evidence of tenant-petitioner Nitin Khosla was closed. He filed a revision petition and during its pendency, he expired. His LR was brought on record.

9. Keeping in view that the procedure is handmaid to the administrative of justice and it is meant for advancement of justice and parties should be given sufficient opportunity to present their case, so last and final opportunity is granted to the petitioner to produce the evidence at his own responsibility but subject to payment of cost of Rs.5,000/- to the respondent-landlord. The learned trial Court shall fix a date for evidence of the petitioner on receipt of a copy of this order, atleast of a gap of 15 days and shall issue summons to the witnesses to the petitioner, who shall serve

the witnesses at his own responsibility. If petitioner is not able to serve the witnesses or failed to produce the witnesses, he shall not be entitled for further opportunity. It is further made clear that in case for any reason, the Court is not being held on the date fixed, then the evidence shall be produced by the petitioner on the very next working day at his own responsibility and not beyond that.

10. Petition stands disposed of.

(GURBIR SINGH)
JUDGE

02.11.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No