

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

276

CR-7153-2019

Date of decision: 07.08.2023

Umesh Gupta

....Petitioner

Versus

Monika Singal

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Bhavnik Mehta, Advocate for the petitioner.

Mr. Edward Augustine George, Advocate for the respondent.

AMARJOT BHATTI, J.

1. The petitioner – Umesh Gupta has filed revision against impugned order dated 01.11.2019 passed by Rent Controller, Hissar in Rent Petition No.32-Rent of 2018 titled as ***“Monika Singal vs. Umesh Gupta”*** vide which the application filed by the respondent i.e. the present petition under Order 18 Rule 3-A, CPC has been declined.

2. The learned counsel for the petitioner pointed out that respondent-landlady filed eviction petition against the present petitioner/tenant on different grounds. The copy of rent petition is Annexure P-4 and the written statement filed by him is Annexure P-5. After framing of issues the case was fixed for the petitioner evidence. The petitioner examined as many as seven witnesses but she did not step into the witness box. As per the mandate of Order 18 Rule 3-A, CPC, the petitioner-Monika Singal was required to step into the witness box first and in case she was to appear later on she was required to take permission

from the Court. The present petitioner raised objection and filed application under Order 18 Rule 3-A, CPC which has been wrongly declined by passing impugned order dated 01.11.2019. The learned counsel for the petitioner-Umesh Gupta has referred to Section 16 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 which deals with the powers of Rent Controller to summon and enforce attendance of the witness as provided under Civil Procedure Code, 1908. He has also referred to the provisions of Order 18 Rule 3-A, CPC which required the plaintiff to step into the witness box first and in case the plaintiff opted to appear later on then permission of the Court was required. Therefore, the learned Rent Controller has gravely erred in law and indicates overlooking the aforesaid provisions of CPC. It is prayed that the impugned order dated 01.11.2019 passed by the Rent Controller, Hissar may kindly be set aside and the respondent may kindly be directed to obtain specific permission from the Court for deposing as a witness in the rent petition.

3. On the other hand, the learned counsel for the respondent pointed out that the present civil revision has been filed only to delay the proceedings before the Rent Controller. The application filed by the petitioner-Umesh Gupta i.e. the respondent in the main case under Order 18 Rule 3-A, read with Section 151 of CPC was rightly rejected. The provisions of CPC are not applicable to the proceedings which are carried out by the Rent Controller except the provisions which are expressly made applicable under the provisions of the Haryana Urban (Control of Rent & Eviction) Act, 1973. The facts of the case and the legal provisions were rightly appreciated by the Rent Controller. He has again relied upon the

authority cited in **2016(1)Rent LR 106 of Coordinate Bench in case titled as “*Krishan Kumar Vs. Mohan Lal (since deceased) through his LRs*”** wherein it was held that:-

“12. Apparently, the Controller is only guided by the principle of procedure laid down in the Code of Civil Procedure, and that too, only for the purpose specifically indicated in the rule. And is, thus, not obliged to adhere to any specific provision of the Code of Civil Procedure, except for summoning and enforcing attendance of the witnesses in terms of Section 16 of the Act. Therefore, even by the most convenient construction of these provisions, the other provisions of the Code of Civil Procedure cannot be brought in either expressly or by necessary implication. Meaning thereby, strict provisions of CPC shall not apply to the proceedings under the Act and only those provisions of the Code shall be made applicable, which the Act specifically provides.

13. Thus, the only and the inevitable conclusion that could be reached is that provisions of Rule 3-A of Order 18 of CPC shall not apply to the proceedings under the Rent Act.”

Therefore, the application filed by the present petitioner was rightly declined and the impugned order dated 01.11.2019 does not require any interference.

4. I have considered the arguments and have gone through the record carefully. The present civil revision has been filed by the present petitioner-Umesh Gupta/respondent/tenant against impugned order dated 01.11.2019 passed by the Rent Controller, Hissar vide which his application under Order 18 Rule 3-A of CPC has been declined. Monika Singal filed ejectment petition against Umesh Gupta under the provisions

of Section 13 of Haryana Urban (Control of Rent & Eviction) Act, 1973 from the premises as detailed in the petition. The copy of petition is Annexure P-4 and the written statement filed by the respondent-Umesh Gupta/present petitioner is Annexure P-5. It is admitted fact that the landlady i.e. respondent in this case had examined other witnesses during trial and when she stepped into the witness box as her own witness the present application was filed under Order 18 Rule 3-A of CPC alleging that her statement could not be recorded without permission of the court as provided under Order 18 Rule 3-A read with Section 151 of CPC. The said application has been rejected by passing impugned order dated 01.11.2019 which is Annexure P-1. The provisions under the Haryana Urban (Control of Rent & Eviction) Act, 1973 and the rules framed thereunder are not disputed. As per Rule 7 of the Haryana Urban (Control of Rent & Eviction) Act, 1976 read with Section 23 of Haryana Urban (Control of Rent & Eviction) Act, 1973 deals with procedure to be adopted by the Rent Controller which runs as under:-

“7. Procedure to be adopted by Controller [Section 23].-(1)

When an application under the Act is presented to the Controller he shall fix the date, time and place at which the enquiry in respect of the application will be held and send a notice along with a copy of the application to each respondent in Form ‘A’ appended to these rules.

(2)The Controller shall give to the parties, a reasonable opportunity to state their case. He shall also record the evidence of the parties and witnesses examined on either side and in doing so and in fixing dates for the hearing of parties and their witnesses, in adjourning proceedings and dismissing application for default or for other sufficient reasons, the

Controller shall be guided by the principles of the procedure as laid down in the Code of Civil Procedure.”

Therefore, the Rent Controller can proceed with the trial by following its own procedure but at the same time the Rent Controller shall be guided by the principles of procedure as is laid down in the Code of Civil Procedure. The provisions of CPC are made applicable as provided under Section 16 of Haryana Urban (Control of Rent & Eviction) Act, 1973 regarding summoning and to enforce the attendance of witnesses. Furthermore, Section 18 of the aforesaid Act explained that for the execution of the orders the provisions of Civil Procedure Code are strictly applicable. Therefore, it cannot be said that all the provisions of CPC are applicable to the petition filed under the provisions of Haryana Urban (Control of Rent & Eviction) Act, 1973. The citation referred in Krishan Kumar’s case (supra) is fully applicable to the facts of the present case which is also relied upon by the Rent Controller while passing the impugned order dated 01.11.2019.

With this observation, I do not find any reason to interfere in the impugned order dated 01.11.2019, which is accordingly upheld and the civil revision preferred by the petitioner-Umesh Gupta is accordingly declined.

07.08.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No