

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

CR-7839-2019(O&M)

Date of decision:-22.2.2023

Amit Kumar

...Petitioner

Versus

Surinder Kumar since deceased through his LRs

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ashish Soi, Advocate
for the petitioner.

Ms.Shivya Sehgal, Advocate
for the respondents.

H.S. MADAAN, J.

1. Under challenge in this revision petition is order dated 11.10.2019 passed by Rent Controller, Ludhiana vide which an application under Section 151 CPC filed by respondent/tenant for leading additional evidence had been dismissed.

2. Briefly stated, facts of the case are that petitioner/landlord Surinder Kumar had brought an ejectment petition against respondent/tenant Amit Kumar, on getting notice of which, he had put in appearance and contested the said petition. During the pendency of the proceedings, the respondent/tenant had filed an application for permission to lead additional evidence contending that earlier some other counsel was representing such respondent/tenant, however due to his unsatisfactory response, the respondent/tenant had engaged a new counsel and such new counsel while preparing final arguments came to know that due to non

advise of the earlier counsel, some important witnesses could not be examined, which are very important for proper and just decision of the case.

3. *Inter alia*, in the application, it was contended that petitioner/landlord is relying upon a forged and fabricated rent agreement dated 20.5.2015, whereas no such agreement was ever executed by respondent/tenant in favour of the petitioner/landlord. This has been so mentioned in the written reply to the ejectment petition filed by respondent/tenant and in order to establish that fact the respondent/tenant wanted to examine the following witnesses:

(i) Handwriting and Fingerprints Expert;

(ii) Sh. Satinder Kohli, Stamp Vendor, Ludhiana along with complete record/register regarding the sale of stamp papers No.2211 dated 20.5.2015 to Amit Kumar son of Satpal;

(iii) Sh. Rajinder Singh, Advocate, Notary Public, Ludhiana along with register regarding attestation of alleged rent deed between Amit Kumar son of Satpal and Surender Kumar son of Hari Chand.

Therefore, the applicant/respondent-tenant be allowed to do so.

4. That application was resisted by the petitioner/landlord and vide impugned order dated 11.10.2019, the said application was dismissed. For ready reference, the operative part of the order is being reproduced as under:

The present application has been moved by the

respondent for permission to lead additional evidence. Perusal of the file shows that the present case was fixed for rebuttal and arguments. At the fag end of the case, the respondent has filed present application. The respondent has already led his evidence and the same was closed by the counsel for the respondent on date 9.5.2019. The negligence of the earlier counsel is no ground to reopen the evidence. Moreover, there will be no end to litigation in case parties are allowed to lead evidence in such manner. Hence, it is unwarranted to reopen the evidence as required by the respondent. So the present application is dismissed being devoid of merit with cost of Rs.500/-. Now the case is adjourned to 29.10.2019 for rebuttal evidence otherwise for arguments.

5. Feeling aggrieved, the respondent/tenant has approached this Court by way of filing the present revision petition, notice of which was given to respondent/landlord (since dead) through his LRs, who have put in appearance through counsel.

6. I have hard learned counsel for the petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

7. The provision of Order 18 Rule 17-A CPC dealing with production of evidence not previously known or which could not be produced despite due diligence has since been deleted. The reason given by the Revision-petitioner/tenant for non-production of such evidence is least convincing. Every counsel is supposed to be competent and well

versed in law. Merely by change of a counsel, a litigant does not get any right to adduce further evidence for the reason that the earlier counsel had not advised him to produce that evidence earlier. The application is highly belated and was filed when the parties had concluded their evidence and the case was posted for final arguments. Thus, the application for additional evidence was rightly rejected by learned Rent Controller, Ludhiana and no fault can be found with the same.

8. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

9. Finding no merit in the revision petition, the same stands dismissed.

The interim order dated 8.1.2020 passed by this Court staying passing of final order thus comes to an end.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

22.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No