

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

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CR-662-2024 (O&M)

Date of decision:05.02.2024

Pawan Kumar

... Petitioner

Vs.

Rajkaran Singh Bath & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Vivek Salathia, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by petitioner against the order dated 09.01.2024 (Annexure P-5) passed by the Civil Judge (Jr. Division), Amritsar, whereby his evidence was closed by order.

2. The relevant facts which emerge from the record are that the landlord/respondents filed a rent petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against the present petitioner before the Rent Controller, Amritsar for his ejection from the shop in question as detailed in the head note of the said petition. Notice of the petition was issued to the tenant/petitioner, who appeared and filed written statement. Meanwhile, respondents/landlord filed an application under Order 8 Rule 10 CPC for closing the right of defence of the petitioner/tenant which application was dismissed by the trial Court. The civil revision bearing CR No.5236 of 2022 filed before this Court was disposed of vide order dated 20.02.2023 by directing the Rent Controller, Amritsar to consider and decide

the rent petition expeditiously within a period of 9 months from the date of passing of the order. Thereafter an application bearing CM-19720-CII-2023 for extension of time beyond the said period of 9 months was filed by the present petitioner/tenant and an identical request was also made by the Rent Controller before this Court vide CM-20183-CII-2023 in the aforesaid civil revision. These were disposed of together vide a common order dated 02.11.2023 and extension of 4 months time was given by this Court from the date of the order i.e. 02.11.2023 and it was also directed that the petitioner/tenant shall be granted three effective opportunities to lead his evidence within the aforesaid extended time.

3. Thereafter petitioner/tenant led his evidence and also moved an application for summoning of official witnesses. The said summoned witnesses appeared before the Rent Controller but did not produce the summoned record of their respective departments on the date of hearing i.e. on 09.01.2024. Then vide the impugned order dated 09.01.2024, the evidence of the petitioner was closed by order of the Court. So the petitioner has knocked the doors of this Court by filing the present revision petition.

3. Learned counsel for the petitioner has contended that the petitioner had moved an application for summoning of official witnesses and the summoned witnesses had also appeared before the Rent Controller but did not produce the summoned record of their respective departments on the date of hearing i.e. On 09.01.2024. But without giving any opportunity to the petitioner to examine the said summoned witnesses, the Rent Controller, Amritsar wrongly and erroneously passed the impugned order dated 09.01.2024, thereby closing the evidence of the petitioner by order. He has

further contended that these witnesses are very material for proving the defence taken by the petitioner in his reply to the effect that the respondent/ landlord was working as a Director of the company and also the fact that as the demised property was situated near the Golden Temple, hence no construction was permitted and no new plans were being approved. He has urged that the delay was attributable to the witnesses and deliberately they did not produce the record before the Rent Controller on the date fixed, but erroneously the petitioner was not afforded the opportunity to examine such material witnesses which has heavy bearing upon the final decision of the case. He has submitted that though as per directions of this Court, the last date i.e. 09.01.2024 was the third and the last date for the petitioner to lead evidence yet when the witnesses were not forthcoming, then the same ought not to have been taken against the petitioner to defeat the ends of justice.

4. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

5. Perusal of the impugned order reveals that the summons issued to the Clerk, GST Department were received back duly served. But instead of appearing in the Court, a request letter was issued by Mandeep Singh, Superintendent, CGST Division, Amritsar-I, stating therein that Sections 158 and 162 of the Central Goods and Service Tax Act, 2017, bars the officers appointed under CGST Act, to disclose any information to a civil Court in any suit or proceedings, to which the government or any authority under the CGST Act, 2017 is not a party and prayed that his office be exempted from providing the required information in view of Sections 158 and 162 of the CGST Act, 2017.

6. Summons issued to Clerk MTP were also received duly served and Simarjit Singh Clerk appeared in the Court and made a separate statement that he had not brought the summoned record due to the reason that the said record would be sent after ATP would instruct the Building Inspector to send the record in the Court but till date the instructions have not been given to Building Inspector by the ATP.

7. RW2 Pawan Kumar, RW6 Sighawan Rai and RW8 Vishal were also present and examined. Then the trial Court held that there was no justification to adjourn the case for further evidence of the respondent as he had already availed sufficient opportunities. Then by making reference to order dated 02.11.2023 of this Court passed in CM-20183-CII-2023 and CM-19720-CII-2023 in CR-5236-2022, it was held that petitioner had been granted three effective opportunities to lead his evidence and in view of the aforesaid order of this Court, evidence of the petitioner was closed by order.

8. So from the aforesaid order, it transpires that the petitioner had moved an application for summoning the witnesses from the GST and MTP Departments and they were served for 09.01.2024. But despite the fact that Clerk MTP appeared in the Court, he did not produce the summoned record by stating that the record would be sent after the ATP would instruct the Building Instructor to send the record in the Court. But till date the instructions had not been given to the Building Inspector by ATP. So in these circumstances, the trial Court ought to have bound down this witness for the next date with the directions that the record be produced in the Court on the next date after getting the required permission as submitted by him. But instead of it even though the petitioner was not at fault for causing the

delay for examination of the said witness his evidence was closed by order of the Court.

9. Learned counsel for the petitioner at this stage has submitted that he would be satisfied if one more opportunity is granted to the petitioner for examining the said witness of MTP Department. The trial Court is directed to issue required summons for procuring the presence of said witness and then one effective opportunity be provided to the petitioner for examining the said witness, after his presence is procured.

10. The impugned order is set aside. The trial Court will grant one effective opportunity to the petitioner to conclude his evidence.

11. Revision petition is allowed in the aforesaid terms.

12. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

05.02.2024

harjeet

1. Whether speaking/reasoned? Yes/No
2. Whether reportable? Yes/No