

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

CR-753-2024
Decided on: 08.02.2024

HOTEL LODHI PVT. LTD

...Petitioner

Versus

M/S ASHOKA READYMADE STORE AND ANOTHER

...Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Manuj Nagrath, Advocate
for the petitioner.

RITU TAGORE, J. (Oral)

1. Petitioner has assailed the order dated 19.09.2019 (Annexure P-8), passed in a Rent Petition No.562 of 2015 titled as ‘Hotel Lodhi Pvt. Ltd. Vs. Ashoka Readymade Store etc’, whereby by learned Rent Controller, Ludhiana has closed the evidence of petitioner. Further, an order dated 19.10.2022 (Annexure P-9), rejecting the application to recall the order dated 19.09.2019, has also been challenged.
2. Learned counsel for the petitioner submits that the petitioner-landlord filed a petition under Section 13 of the East Punjab Rent Restriction Act, 1949 (referred to as ‘the Act’) for eviction of the respondents from the shop as detailed in the head note of the Rent Petition, on the grounds of non-payment of rent and house tax, and for personal use and occupation. The respondents caused their appearance in the aforesaid Rent Petition and filed written statement, refuting the averments of the petitioner. It is stated that,

learned Rent Controller, assessed the provisional rent and thereafter posted the petition for evidence after framing the issues on 16.04.2018.

3. The learned counsel representing the petitioner while referring to the zimini orders (Annexure P-3 to P-9) contends that the petitioner tendered his affidavit for his examination-in-chief alongwith certain documents and in the interregnum the petition was also posted for compromise but compromise could not take place between the parties. Learned counsel stated that on one occasion the local Bar had suspended the work and on two occasions the cross-examination of the petitioner could not take place and on one occasion the petitioner was not keeping well.

4. Learned counsel stated that the learned Rent Controller, has passed a harsh order by closing his evidence, adversely impacting his rights in the petition. The learned counsel contends that if he is prevented from leading his evidence, he shall suffer irreparable loss. Learned counsel also submits that he seeks one opportunity for completion of his cross-examination and shall not take adjournment in this regard. Also, stated that no other witness except the cross-examination of the petitioner is to be conducted in the present case. It is prayed that petition be allowed and impugned orders be set aside.

4. In view of the limited prayer made by the petitioner in this revision, notice to the respondents-tenant is dispensed with, at this stage.

5. Annexure P-1, a copy of the petition, indicates that petitioner-Hotel Lodhi Pvt. Ltd. through its Director Raj Kumar Bhandari, filed the above captioned eviction against the respondents, regarding the demised shop on the grounds detailed above. Respondents filed the written statement and contested the averments of the petitioner-landlord.

6. It is a matter of record, evident from the various zimini orders (Annexure P-3-P-9) that after assessment of the provisional rent, the learned Rent Controller framed the issues and provided numerous opportunities to the petitioner-landlord to present and conclude his evidence. It is also apparent from the paper-book that the petitioner tendered his affidavit for his examination-in-chief but failed to conclude his evidence, including his cross-examination, resulting in the closure of his evidence vide impugned order dated 19.09.2019. His request for review of the aforesaid order was also declined vide order dated 19.10.2022.

7. It is settled principle of law that all the parties to the *lis* should be granted adequate opportunity to present their case before the Court by permitting them to lead their evidence including right to conduct cross-examination. The basic principal of law is that the parties to litigation should conclude the suit by presenting their respective evidence before the trial Court, ensuring equal opportunities for all parties to substantiate their version.

8. Although, I find that the petitioner has been negligent in not pursuing the litigation with due diligence, but still it can not be suggested that the delay has been caused by the petitioner for any *mala fide* reasons. It is well established that the Court should adopt a liberal approach and rights of the parties should be adjudicated on the merits of the controversy rather thwarting the same on rigid technicalities. Furthermore, the counsel on behalf of the petitioner has committed that petitioner (PW-1) would present him for his cross-examination and would not take any adjournment and conclude his evidence in one opportunity. On behalf of the petitioner, his counsel has also stated that no other witness except the petitioner (PW1) is to be examined in the case.

09. In the circumstances, to do complete justice between the parties, I feel that one opportunity be granted to the petitioner to complete his cross-examination but that can only be on punitive terms. The delay can always be rectified or atoned by imposing costs. Accordingly, impugned orders stand set aside, subject to payment of Rs.20,000/- as costs payable to respondent-tenant by the petitioner-landlord. It is made clear that petitioner will have one opportunity to complete his cross-examination and shall not seek any further adjournment in this regard. It is further made clear that if petitioner fails to comply with the above directions, he will forfeit his right to complete his cross-examination
10. Learned Rent Controller shall give one effective opportunity to petitioner to get his cross-examination concluded.
11. Accordingly, Revision Petition is disposed of in above terms.
12. Pending applications, if any, also stand disposed of accordingly.

(RITU TAGORE)
JUDGE

08.02.2024
Rimpal

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