

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

134

CR-2036-2024 (O&M)

Date of Decision : 04.04.2024

M/S COMFFITS MKTG (MARKETING) & ORS.

.... Petitioners

VERSUS

METROFLEX FITNESS LLP & ORS.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.K. Singal, Advocate for the petitioners.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 19.03.2024 (Annexure P-1) passed by the learned Rent Controller, Chandigarh whereby the evidence of the petitioners has been closed by order.

2. Learned counsel for the petitioners would contend that on 07.02.2024 one witness, namely, Gurdarshan Singh was summoned. However, he had stated that the summoned record is available with the Office of SDO (Building) and hence the concerned official from the said Department may be summoned. Accordingly, Gurdarshan Singh was discharged and summons to the concerned official of the Office of SDO (Building) was issued for 15.02.2024. Another witness, namely, Chandan Preet Kaur, Office of Excise and Taxation Inspector was also summoned. However, she could not be examined on the said date and she was bound down for the next date of hearing i.e. 15.02.2024. Third witness, namely, ASI Balbir Chand did not appear and a request was received from him which was allowed and fresh summons were issued to ASI Balbir Chand for the

date fixed i.e. 15.02.2024. It is further the contention that on 15.02.2024 petitioner No.2 had given his affidavit in examination-in-chief and thereafter the case was adjourned to 11.03.2024 for his cross-examination on the request of the counsel for the respondents herein. Thereafter on the said date i.e. 11.03.2024 petitioner No.2 could not appear for his cross-examination as he was unwell and was under treatment. Learned counsel for the petitioners has further contended that given one opportunity petitioner No.2 would present himself for his cross-examination on the next date of hearing itself i.e. 16.04.2024. It is further the contention that once the witnesses have been bound down it was the duty of the Court concerned to take the matter further to its logical end and to ensure the presence of the said witnesses. Learned counsel for the petitioners has stated that the petitioners do not wish to lead any further evidence and would not summon any further witness except for the three witnesses as stated above as well as petitioner No.2 himself for his cross-examination.

3. Notice of motion.

4. Mr. Anuj Raura, Advocate and Mr. Akash Ahlawat, Advocate have appeared and have accepted notice on behalf of the respondents and waive service. Learned counsel for the respondents would contend that the petitioners have been trying to delay the matter. The eviction petition has been filed by the respondent-landlords on the ground of *bonafide* personal necessity and the matter has been delayed by the petitioners on one pretext or the other.

5. Heard.

6. In the present case the counsel for the petitioners has contended that petitioner No.2 though had given his affidavit in examination-in-chief on 15.02.2024, however, he could not present himself for cross-examination on 11.03.2024 due to medical reasons. It has further been contended that given one opportunity the petitioner No.2 would present himself for cross-examination on the next date of hearing itself i.e. 16.04.2024. On 07.02.2024 three witnesses were summoned by the Court concerned. Gurdarshan Singh, who was summoned, had stated that the summoned record is available with the Office of SDO (Building) and accordingly summons to the concerned official of the Office of SDO (Building) was directed to be issued as per the statement of Gurdarshan Singh and Gurdarshan Singh was discharged. Another witness, namely, Chandan Preet Kaur from the Office of Excise and Taxation Inspector was also summoned but she could not be examined and she was bound down for 15.02.2024. The 3rd witness, namely, ASI Balbir Chand had sent a request which was allowed and fresh summons were issued to the witness, namely, ASI Balbir Chand for the date fixed i.e. 15.02.2024. On 15.02.2024 petitioner No.2 filed his affidavit in examination in chief and his cross-examination was deferred on request of the counsel for the respondent. None of the other witnesses had appeared and the matter was adjourned to 11.03.2024. On 11.03.2024 yet again none of the witnesses were present and witness from the concerned Estate Office was ordered to be summoned through bailable warrants for 19.03.2024. On 19.03.2024 again

none of the witnesses were present and accordingly the evidence of the petitioners was closed by order. As far as the cross-examination of petitioner No.2 is concerned, this Court deems it appropriate to grant one opportunity to petitioner No.2 to present himself for cross-examination on the next date of hearing itself i.e. 16.04.2024. Learned counsel for the petitioners has assured the Court that petitioner No.2 is now well and would appear before the Court for cross-examination and that the petitioners would not seek a date on any account. Regarding the official witnesses, it is the duty of the Rent Controller concerned to ensure the presence of the said witnesses since they were summoned witnesses.

7. In view of the above, order dated 19.03.2024 (Annexure P-1) cannot be sustained and the same is accordingly set aside subject to payment of Rs.30,000/- as costs to be paid by the petitioners to the respondents. The payment of costs shall be a condition precedent. The Rent Controller concerned shall take requisite steps for ensuring the presence of all the three witnesses as stated above. It is further made clear and as stated by the learned counsel for the petitioners that no further application would be given for summoning of any other witnesses. Learned counsel for the petitioners has further assured the Court that the petitioners would not seek any unnecessary adjournment in the present case. The Rent Controller concerned is requested not to allow any unnecessary adjournment in the case.

8. Disposed off in the above terms. Pending applications, if any, also stand disposed off.

04.04.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*