

2024:PHHC:079962



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

120

CR-2122-2024 (O&M)

Hardesh Aggarwal and others

...Petitioners

Versus

Pardeep Arora

...Respondent

120-2

CR-2124-2024 (O&M)

Rakesh Aggarwal and another

...Petitioners

Versus

Pardeep Arora

...Respondent

120-3

CR-2125-2024 (O&M)

Hardesh Aggarwal

...Petitioner

Versus

Pardeep Arora

...Respondent

Date of decision: 24.05.2024

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. V.K. Sandhir, Advocate for the petitioners.

Mr. Umesh Aggarwal, Advocate for the respondent.

VIKAS SURI, J. (Oral)

1. By this common order, the above captioned three civil revision petitions are being disposed of arising out of rent petitions filed



by the same respondent-landlord against three different set of tenants, involving common questions of law and facts.

2. For the sake of convenience and reference, the facts are being referred from CR-2122-2024.

3. By way of the instant revisions petitions under Article 227 of the Constitution of India, the petitioner-tenant(s) assail the order dated 22.02.2024, passed by the learned Rent Controller, Amritsar, whereby the application(s) moved by them under Order 13 Rules 3 and 6 read with Section 151 CPC, was dismissed.

4. Learned counsel for the petitioner submits that the respondent-landlord filed a rent petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, for eviction of the petitioner-tenant(s) from the demised premises on the grounds of non-payment of rent and personal necessity. Upon notice of the said rent petition(s), the petitioners filed their reply and the issues were framed. The landlord appeared as his witness and tendered his affidavit in his examination-in-chief on 05.05.2023. The case was deferred to 11.08.2023 for cross-examination of PW-1 Pardeep Arora. In the affidavit tendered as examination-in-chief, the respondent has referred to certain documents as Ex.P1 to P13, which were also tendered along with the aforesaid affidavit. On the date fixed for cross examination, the petitioner moved an application averring that while going through the copy of the affidavit of the landlord, tendered as examination-in-chief, it has transpired that certain documents have been wrongly exhibited by PW-1 Pardeep Arora



through his affidavit, without proving the same as required under law. Thus, an objection was raised regarding the admissibility of the said documents and mode of proof. It was further sought that the aforesaid objections be recorded and decided first, before the cross-examination of the concerned witness. The said application was contested by the respondent and the same was dismissed vide impugned order dated 22.02.2024, which has been assailed by way of the present revision petition(s).

5. At this stage, Mr. Umesh Aggarwal, Advocate, puts in appearance on behalf of the respondent-landlord and has filed his power of attorney in all the three revision petitions, which are taken on record. Learned counsel for the respondent submits that the present petitions have been filed only to delay the proceedings before the Rent Controller. He has very fairly submitted that it is trite law that mere production and marking of a document as an exhibit by the Court cannot be held to be due proof of its contents. The documents in question cannot be read into evidence unless the same have been proved in accordance with law. Reference is made to the ratio in ***Narbada Devi Gupta vs. Birendra Kumar Jaiswal and another***, (2003) 8 SCC 745, wherein the Hon'ble Supreme Court has held that the contents of a document are not automatically proved only because the same have been marked an exhibit. It is further submitted that Ex.P1 to P13 are to be proved in accordance with law and for the said purpose, the respondent-landlord has already taken steps for summoning the concerned witnesses vide



application dated 05.04.2023, which has been allowed by the Rent Controller and diet money has also been deposited in terms thereof. A copy of the application and the receipt showing deposit of diet money on 06.04.2023 has also been produced in Court. It is, thus, submitted that the concern of the petitioners is ill-founded.

6. Learned counsel for the petitioners has referred to judgments in ***Kailash Devi vs. Jai Kishan (Lance Naik) and another***, 2004(4) RCR (Civil) 111, ***Arya Mittar and another vs. Dr. Ashok Kumar Goel***, 2010(2) PLR 75 and ***Sandeep Ghai vs. Harminder Singh and others***, 2017(3) PLR 234.

7. To substantiate his submissions, learned counsel for the respondent refers to the decisions in ***Oriental Insurance Co. Ltd. Vs. Premlata Shukla and others***, 2007(3) RCR (Civil) 301, ***Krishan Kumar vs. Sandeep and others***, 2019(1) PLR 540 and ***Harjinder Singh vs. Ranjit Kaur and others***, 2016(2) PLR 46.

8. Heard learned counsel for the parties and perused the record with their able assistance.

9. Learned counsel for the parties are *ad idem* that in view of the relationship of landlord and tenant being admitted by both the parties, the submissions made on behalf of the respondent-landlord noticed hereinabove and the conceded position in law, the present petitions be disposed of in terms thereof and the parties be bound down by their submissions before this Court, so that they may not resile therefrom before the learned Rent Controller.



10. Admittedly, the documents referred to in the affidavit tendered as examination-in-chief are only photocopies thereof. Perusal of the material appended with the instant revision petitions, does not show that the original of such documents was produced before the Rent Controller on 05.05.2023, when the aforesaid affidavit was tendered in examination-in-chief. Concededly, the said documents are yet to be proved on the record and in view of the settled law, mere exhibit marking of a document does not dispense with the mode of its proof. Moreover, the respondent-landlord is stated to have already taken steps to prove the said documents, as per law. Thus, Ex.P1 to P13 cannot be relied upon at this stage without being duly proved in accordance with law. However, those documents which are categorically admitted by the petitioner(s), would stand on a different footing.

11. In view of the aforesaid and in the light of the settled legal position, the consensus arrived at and the factual aspect noticed above, the present revision petitions are disposed of with the observation that mere mentioning of the documents as Exhibits in the affidavit filed as examination-in-chief or the same being assigned Ex. P-1 to P-13 by the Court as such, would not *ipso facto* make them admissible in evidence, unless a document has been admitted by the opposite party and signatures thereon are also admitted, before being marked as exhibits. For the said documents to be read into evidence, the respondent-landlord would have to prove them in accordance with law, thereby discharging the mode of proof.

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12. The revisions petitions are disposed of accordingly.
13. Pending applications, if any, also stand disposed of.

May 24, 2024
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No