

2024:PHHC:090704



(123) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3796-2024 (O&M)
DATE OF DECISION:-19.07.2024

Sunil Dutt ...Petitioner.

Vs.

Hari Singh ...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Harsh Goyal, Advocate,
for the petitioner.

HARKESH MANUJA, J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, prayer has been made for setting aside an order dated 14.05.2024 (Annexure P-1) passed by the learned Rent Controller, Malerkotla, whereby, the cross-examination of official witness namely, Tarandeep Singh Deol, who appeared from the side of respondent-landlord was treated as NIL.
2. Briefly stating, the respondent-landlord filed an eviction petition against the petitioner-tenant, wherein, during the course of recording of evidence of the respondent-landlord on 04.05.2024, two of his witnesses appeared, namely, Hari Singh and Tarandeep Singh Deol. Though, Hari Singh was examined completely, whereas, cross-examination upon Tarandeep Singh Deol was never conducted by the petitioner-tenant and the following order was passed:-

“One AW namely Hari Singh has been examined completely. Another AW namely Tarandeep Singh has been examined in chief. An opportunity given to Ld. Counsel for respondent for cross-examining the above said witness but he is not willing to cross examine the said witness. So, his cross-examination is treated as nil. No other AW is present. On request, case is adjourned to 31.05.2024 for remaining evidence of applicant.”

3. Impugning the aforesaid order, learned counsel for the petitioner submits that no opportunity to cross-examine the witness, namely, Tarandeep Singh Deol was afforded to the petitioner-tenant. He points out that once the counsel representing the petitioner-tenant was present in the Court having cross-examined respondent-landlord (Hari Singh), there was no reason for him to have not cross-examined the other witness, namely, Tarandeep Singh Deol. He also submits that the passing of the impugned order would cause serious prejudice to the rights of the petitioner-tenant on account of deposition made by witness Tarandeep Singh Deol not been rebutted by way of cross-examination and accordingly, he prays for setting aside of the impugned order.

4. I have heard learned counsel for the petitioner and gone through the paper book.

5. In the present case, perusal of record shows that learned Rent Controller went on to specifically record in its order dated 14.05.2024 that the counsel representing the petitioner-tenant despite having been afforded opportunity was not willing to cross-examine the witness Tarandeep Singh Deol and in such circumstances, finding no other alternate, the opportunity to cross-examine him was treated as NIL. Even otherwise, neither any application was ever moved before the Rent Controller so as to point out that the reason recorded in the order dated 14.05.2024 was against facts and

records nor even any affidavit of learned counsel representing the petitioner-tenant before the trial Court was even attached along with the present petition to point out anything to the contrary as recorded in the impugned order. Rather, the denial to cross-examine witness Tarandeep Singh Deol by the petitioner-tenant on the date fixed appears to be a delaying tactics as he was conscious of the fact that witness Tarandeep Singh Deol was an official witness and was summoned for the date fixed alongwith records and in such circumstances, finding no illegality or perversity in the impugned order passed by the Rent Controller, Malerkotla, the same calls for no interference. Resultantly, the present petition stands dismissed.

6. Pending application, if any, also stands disposed of.

19.07.2024

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No