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

CR-4222-2023

Date of decision: 03.10.2024

Ram Murti (deceased) through his LRs

...Petitioner(s)

Versus

Hari Narain Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Pritam Singh Saini, Advocate and
Mr. Deepak Singh Saini, Advocate for the petitioner(s).

Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Navyuggeet Brar, Advocate for respondent No.1.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for quashing/setting aside the impugned order dated 17.05.2023 (Annexure P-4) vide which an application filed under Order 22 Rule 12 of CPC by the petitioner(s) for discovery of documents, i.e., original receipt dated nil alleged to have been executed by late Sh. Ram Murti son of Asa Ram in respect of the rent paid upto 23.02.2019 at the rate of Rs.800/- per month, has been dismissed.

2. Brief facts of the present case are that one Ram Murti had filed an ejectment petition under section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of respondent No.1 from the shop in



question. During the pendency of the said case, an application (Annexure P-5) was filed by respondent No.1 for directing the present petitioner(s) to produce the original rent agreement dated 22.06.1989 and original of the writing dated 23.02.2019. The petitioner(s) also filed an application (Annexure P-3) under Order 11 Rule 12 CPC for discovery of document, i.e., the original receipt dated nil alleged to have been executed by late Sh. Ram Murti in respect of the rent paid upto 23.02.2019 at the rate of Rs.800/- per month. A reply was filed by respondent No.1 to the application filed by the petitioner(s), although the same has not been annexed alongwith the present revision petition. The Rent Controller vide order dated 17.05.2023 (Annexure P-4) had observed that both the parties had denied possession of the original writing dated 23.02.2019, as the respondent No.1(tenant) had contended that he only had a copy of the same and the original was in custody of the petitioner (landlord). On the other hand, the petitioner (landlord) had also denied possession of the original writing and accordingly, the said application was disposed of by observing that since both the parties were denying the possession of the same, therefore, they could not be compelled to produce the original of the same. It was further observed that an “appropriate inference would be drawn against them at an appropriate stage for non-production of original documents”.

3. Learned counsel for the petitioner(s) has submitted that a copy of the rent receipt dated 23.02.2019 had been produced by the respondent and thus, the original of the same would also be with the respondent and hence, he should be directed to produce the same. It is further submitted that the said document is forged and thus, the respondent is not purposely



producing the same.

4. On the other hand, learned Senior counsel appearing on behalf of respondent No.1 has submitted that a false plea has been taken by the petitioner(s) and the original of the rent receipt is not with the respondent No.1 and thus, the question of producing the same does not arise. It is submitted that a person cannot be compelled to produce what is not in his possession and the impugned order is absolutely in accordance with law and deserves to be upheld. It is further submitted that the application filed by the petitioner(s) was in fact a counter blast to the application (Annexure P-5) filed by the respondent No.1. Learned Senior counsel for respondent No.1 has relied upon the judgment passed by the Karnataka High Court in case titled as **Sri G. Srinivasa Shetty Vs. Town Sahakara Sangha (N), passed in Writ Petition No.12896 of 2017 decided on 06.12.2017**, in which it had been observed that a party cannot be compelled to produce the document, in case, the said party contends that the original document was not in its custody.

5. This Court has heard learned counsel for the petitioner(s) as well as learned Senior Counsel appearing on behalf of respondent No.1 and has perused the paperbook.

6. It is the stand of both the parties that the original document, which is sought to be produced, is not in possession of either of the parties and each party is alleging that the same is in possession of the other party. In such a situation, the Rent Controller had rightly disposed of the application by recording the said fact and by further observing that a person who states that the original is not in his possession cannot be compelled to produce the



same. No law has been cited to show that once an application has been filed directing the other party to produce the original writing and the other party comes up with a stand that the original is not in his possession, then, the said party can be compelled to produce the same. On the other hand, the judgment passed in *Sri G. Srinivasa Shetty's* case (Supra) clearly lays down that a party cannot be compelled to produce the document if he/she/they were to contend that the original document was not in their custody. The Rent Controller had further rightly observed that an “appropriate inference would be drawn at appropriate stage for non-production of original documents”. The said observation is in accordance with law.

7. Keeping in view the abovesaid facts and circumstances, the impugned order is in accordance with law, and does not call for any interference and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

03.10.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No