



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.133

CR-4262-2024 (O&M)

Date of Decision: 27.08.2024

SANSARI LAL

....Petitioner

Versus

SUKHDARSHAN KUMAR

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Gurbir Singh Sidhu, Advocate
for the petitioner.

ARCHANA PURI, J. (Oral)

CM-12808-CII-2024

Keeping in view the averments made in the application, same is
allowed.

CM-13820-CII-2024

The present application has been filed for placing on record the
zimini orders, as Annexure P-6.

In view of the averments made in the application, same is
allowed and the requisite zimini orders are taken on record.

Main case

Challenge in the present revision petition is to the order dated
05.07.2024 (Annexure P-5) passed by learned Rent Controller, whereby an
application for summoning of Tax Clerk, Municipal Council, Barnala, was
dismissed.



Keeping in view the facts and circumstances, as spelt out from the paperbook, the revision petition is being disposed of, without issuance of notice to the respondent.

Facts germane to be noticed, as evident from the paperbook are that, initially, the respondent-landlord, Sukhdarshan Kumar, had filed the ejectment petition, against the present petitioner/tenant, thereby seeking ejectment of the petitioner from the shop of the size, measuring 30 ft. x 8 ft., situated in Sadar Bazar, Barnala, the boundaries whereof had been given in the head note of the said petition. In the petition, it was asserted that the shop in question is a part of integrated larger building. Even, the site plan of the entire larger building was annexed with the petition, which included eight shops on the ground floor, which were shaped/raised by partition of the walls, under one roof of the building. The demised shop was mentioned as shop No.8 in the site plan. The ejectment petition was filed on the ground of personal necessity i.e. the need of the son of the respondent-landlord and also on the ground of material impairment of the value and utility of the rented shop.

Reply to the ejectment petition was filed, copy whereof is Annexure P-2, wherein, the plea was taken about the demised shop to be an independent unit and not a part of any larger building having eight shops, as alleged.

During the course of recording of evidence of the petitioner-tenant, an application was filed for summoning of Tax Clerk, Municipal Council, Barnala, copy whereof is Annexure P-3. In the application, it was asserted that the demised shop is an independent building, having its own municipal number and the same is also recorded in the municipal record, as



CR-4262-2024 (O&M)

a separate and independent building and therefore, to prove the aforesaid fact, the municipal record of the Municipal Council, Barnala, was required to be examined.

Reply to the said application was filed, copy whereof is Annexure P-4. However, after hearing learned counsel for the parties, the said application was dismissed, vide the impugned order dated 05.07.2024, copy whereof is Annexure P-5.

Feeling aggrieved, the petitioner-tenant, has filed the present revision petition.

The copies of the zimini orders have been placed on record today itself, vide CM-13820-CII-2024. Perusal of the same reveals that vide order dated 18.08.2022, the case was fixed for evidence of the petitioner/respondent and thereupon, despite availing several opportunities, the evidence was not completed and it was only on 03.05.2024, that the application was filed for summoning of Tax Clerk, Municipal Council, Barnala, on the basis whereof, the impugned order was passed.

As observed aforesaid, right from the initial stage, the parties were aware about the respective claims, with regard to the shop in question being part of larger integrated building or an independent unit. It was after much delay of more than two years, that the application was filed.

In the application (Annexure P-3), also no reason, as such, had been assigned, for not filing the said application, at earlier instance. Only by way of examination of the proposed witness, the petitioner intends to establish that this is an independent shop. So far as the identity of the shop in question is concerned, there is no dispute between the parties qua the same. Whether it is part of a larger integrated building or an independent



CR-4262-2024 (O&M)

unit, the same shall not make any difference in adjudicating the rights of the rival parties. Even though, it has been pointed out by the counsel for the petitioner that learned Rent Controller had erroneously relied upon the statement made by Er. Karanbir Singh Sodhi, who was examined in another rent petition, but however, may it be so. Even if the said observation made by learned Rent Controller, as such, is not taken into consideration, on query, the counsel was not able to impress upon the Court, as to what purpose will be served by summoning the aforesaid witness, more particularly, when the shop in question is identifiable and there is no dispute relating to the identity between the parties.

In the given circumstances, the application for summoning the witness, was seemingly filed by the petitioner-tenant, only to gain time. Hence, the present revision petition sans merit and as such, the same is hereby dismissed.

27.08.2024

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No