



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CR-5088-2024
Date of Decision: 04.09.2024

Baljinder Singh

....Petitioner

Versus

Pritpal Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Akshay Kumar Jindal, Advocate
for the petitioner.

VIKAS SURI, J. (Oral)

1. This revision petition under Article 227 of the Constitution of India has been filed by the petitioner-tenant for setting aside the order dated 05.08.2024 (Annexure P-5) passed by learned Civil Judge (Junior Division), Patiala, whereby the evidence of the petitioner-tenant has been closed by Court order.
2. The facts in brief sans unnecessary details are that the respondent-landlord Pritpal Singh filed a petition under Section 20 of the Punjab Rent Act, 1995 for eviction of the petitioner-tenant from the godown space situated at Village Sanaur, Tehsil and District Patiala. The grounds to seek ejectment were non-payment of rent w.e.f 28.05.2015 and the requirement of the demise premises for personal necessity of the landlord.
3. Upon notice, the rent petition was opposed by filing written

**CR-5088-2024**

-: 2 :-

statement. The respondent-landlord filed rejoinder thereto and the issues were framed on 01.09.2022. The respondent-landlord led his evidence and closed his evidence on 18.12.2023 i.e. after a period of nearly one and half years. Thereafter, the matter was deferred for evidence of petitioner-tenant on 11.01.2024. On 04.03.2024, RW-1 Baljinder Singh tendered his affidavit as examination-in-chief and the matter was deferred to 15.03.2024 for his cross-examination. Thereafter, the matter was adjourned on various occasions. On 17.07.2024, as no respondent witness was present, therefore, the matter was adjourned to 05.08.2024 for evidence of the tenant (petitioner herein) subject to costs. On the adjourned date, the trial Court finding no justifiable ground to adjourn the matter further for evidence of respondent, closed the same by order. It is submitted that thereafter, the matter was pending for today, which now stands deferred to 01.10.2024.

4. Learned counsel for the petitioner prays that the petitioner-tenant seeks only one effective opportunity to conclude his entire evidence with the assistance of the Court to summon the requisite record.

5. I have heard learned counsel for the petitioner and with his able assistance, perused the record.

6. A perusal of the zimni orders appended with the revision petition as Annexure P-4 would go to show that the petitioner despite availing ten opportunities since 11.01.2024, examined only one witness, who did not come present for his cross-examination.

7. It is not disputed that numerous opportunities were availed by the petitioner for leading evidence. The petitioner vide order dated 17.07.2024



CR-5088-2024

-: 3 :-

was also cautioned when the case was adjourned subject to last opportunity with costs.

8. The coordinate Bench in ***Bhagwan Dass Jindal vs. Shree Sanatan Dharam Sabha (Regd.) Bathinda and others***, 2024(1) RCR(Rent) 437, held that the rules of procedure are handmaids of justice. They cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases by adducing evidence ought not to be taken away by the Court except in a case of their deliberate omission/failure to produce evidence, more so if the other side can be compensated by costs. Prejudice would indeed be caused to revisionist herein, unless afforded an opportunity to adduce evidence. Trial in ejectment petition may lead to unjust consequences in the absence of an opportunity to the revisionist/tenant to lead evidence.

9. The Apex Court in ***The State of Punjab and another vs. Shamlal Murari and another***, (1976) 1 SCC 719, observed that Courts are to do justice and not to wreck the end product on technicalities.

10. In the peculiar circumstances, taking entirety of the matter into consideration and to secure ends of justice, I deem it appropriate to grant one more opportunity to the petitioner-tenant to lead evidence subject to payment of costs of Rs.30,000/- to be paid to the respondent-landlord and subject to the discretion of the learned Rent Authority to further grant opportunity, in case it so desires depending upon the exigencies of work before it. It shall be the sole responsibility of the petitioner to secure the presence of RW-1 for his cross-examination. The petitioner would be at liberty to seek assistance of the Court



-: 4 :-

to summon any official witness or record. It is made clear that failing to produce the evidence or to pay costs in terms of this order or abide by the undertaking given before this Court, the petitioner would not be entitled to any further opportunity for the said purpose and the Rent Authority would proceed with the matter without this order having any bearing on the trial.

11. As the present revision petition is being disposed of in the absence of respondent-landlord, liberty is granted to him to seek recalling of the present order, if valid grounds for the same are made out.

12. The revision petition is disposed of in the aforesaid terms.

September 04, 2024

Varinder

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No