

2024:PHHC:043396



507.

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

Civil Revision No.5857 of 2023

Date of decision: 01.04.2024

Yash Pal Kapoor

.... Petitioner

Versus

S.S.D. Sabha (Regd.), Hathi Wala Mandir, Bathinda, through its President
Sh. Parmod Mittal.

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Aakash Singla, Advocate, for the petitioner.

Mr. Binderjit Singh, Advocate, for the respondent.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 13.09.2023 passed by learned Additional Civil Judge (Senior Division), Bathinda, whereby the application dated 04.03.2023 (Annexure P-5) moved by the petitioner-tenant for admission and denial and for placing on record some official documents, during the evidence of petitioner, has been dismissed.

2. Brief facts of the case are that the respondent-applicant/ landlord, namely, Shree Sanatan Dharam Sabha (Regd.) filed an eviction application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of petitioner-tenant from shop bearing No.1 MR, 1st

floor situated at Mall Road, opposite Gole Diggi Market, Bathinda, on the ground that the shop, in question, is bonafidely required by the applicant-respondent for its personal use and occupation for extension of SSD Senior School.

2.1 The petitioner-tenant filed reply to said eviction application by stating that the respondent-landlord owns more than 50 shops in the vicinity of the demised premises and had filed eviction applications against other tenants on similar ground of personal necessity and later abandoned/withdrawn the eviction cases after entering into fresh rent agreements. Since the respondent had selectively attached the site plan of the shops/commercial area owned by them in order to conceal those shops qua which they had earlier settled with the tenants therein and the other vital issues were also required to be put forth before the learned Rent Controller, the petitioner moved an application dated 17.02.2023 (Annexure P-3) for allowing the Architect Mr. Rakesh Kumar to visit the premises to take measurement and prepare site plan. However, said application was rejected vide order dated 01.03.2023. Thereafter, the petitioner moved an application dated 04.03.2023 (Annexure P-5) for admission and denial regarding certain official record in the custody of the government departments like PWD B & R and Municipal Corporation and also for placing on record such documents. Reply/supplementary reply were filed to said application by the respondent-landlord. However, vide impugned order dated 13.09.2023, said application was also dismissed.

3. Learned counsel for the petitioner would contend that most of the documents have been admitted by the respondent but despite that his application was dismissed. The case is at the stage of evidence of defendant-petitioner and it has not yet closed the evidence, but in the impugned order, it is wrongly mentioned that the case is fixed for arguments. Learned counsel would further contend that as per Order 12 CPC when the case is at the stage of evidence of any party, the application moved by said party is maintainable. Reliance is placed on ***Balwant Singh Gill (Lt. Col.) Versus Gurdev Singh, AIR, 1980 P&H 139.***

4. Learned counsel for the respondent would argue that earlier also the application moved by the petitioner-tenant for production of document was dismissed. The petitioner-tenant again moved an application dated 04.03.2023 wherein the documents mentioned are not at all relevant for the decision of this case. In fact, the petitioner-tenant intends to delay the proceedings of eviction application.

5. I have heard the submissions of learned counsel for the parties and have gone through the file.

6. The trial Court has dismissed the application mainly on the ground that the evidence of the petitioner-tenant has already been closed but learned counsel for the petitioner has submitted at bar that the evidence has not yet closed. In case ***Balwant Singh Gill (supra)***, this Court dismissed the revision petition by holding that the application for admission of facts was not maintainable after the plaintiffs had finished their evidence.

The said application was filed under Order 12 Rule 4 CPC. The instant

application has been filed under Order 12 Rule 2 CPC. So, said authority is not of much help to the petitioner. In the case in hand, the evidence of petitioner has neither been closed by the order of the Court or on account of statement of the petitioner or his counsel and said fact is corroborated from order dated 17.02.2023 (Annexure P-7), which reads as under:-

“RW-3 Akshay Kumar appeared and examined. An application for allowing Rakesh Kumar to visit the premise is moved. Adjourned to 24.02.2023 for filing reply to the said application.”

6.1 Rule 2 of Order 12 CPC is as under:-

“(2) Where a party unreasonably neglects or refuses to admit a document after the service on him of the notice to admit documents, the Court may direct him to pay costs to the other party by way of compensation.”

6.2 The learned trial Court passed the order keeping in view that the evidence of petitioner was closed which is per se wrong.

7. In view of above, the order dated 13.09.2023 is set aside and the revision petition is allowed. The trial Court is directed to decide the application dated 04.03.2023 (Annexure P-5) moved by the petitioner-tenant afresh in accordance with law.

(GURBIR SINGH)
JUDGE

April 01, 2024
sanjeev

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No