

CR No.7107 of 2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.7107 of 2024 (O&M)
Date of Decision: 05.12.2024

Vinod and others

..... Petitioners

Versus

Krishan Lal

..... Respondent

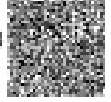
CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashok Kumar Khunger, Advocate for the petitioners.

VIKAS BAHL, J (ORAL)

1. Challenge in the revision petition is to the order dated 21.11.2024 (Annexure P-11) passed by the Rent Controller, Abohar, allowing the application of the respondent to pursue his case through his son due to his mental condition.

2. Learned counsel for the petitioners has submitted that the mental condition of the landlord-respondent is stable and the respondent is purposely trying to avoid further cross-examination and for the said purpose, the application has been moved. It is further submitted that a perusal of the Special Power of Attorney, which has been executed on 23.08.2024 would show that it is nowhere stated in the said Power of Attorney that the respondent is of unstable mind and thus the said fact also shows that in fact the respondent is of stable mind and is purposely trying to avoid the cross-examination. It is submitted that the application filed by the respondent for permission to examine Power of Attorney of the petitioner on his behalf is misconceived and the impugned order allowing the said application is not in accordance with law



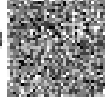
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and thus, the same deserves to be set aside.

3. This Court has heard learned counsel for the petitioners at length and with his able assistance have gone through the record.

4. The respondent had filed the eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, for eviction from the premises in question. In the said proceedings, an application dated 23.08.2024 was filed on behalf of the respondent to examine the Attorney of the petitioner on his behalf, as he has “impaired memory” due to his old age. In the said application, it was stated that the respondent was 85 years of age and had become seriously ill due to infection in his food pipe which was partly damaged and he was operated in Hospital R. Gagan Gastro Care Bathinda, Punjab and was under bed rest and was not in a position to give evidence in the case and since he was in such a situation that he could not lead his evidence properly thus, he had appointed his son as Special Power of Attorney. It was further averred that the said son was in the knowledge of each and every fact of the case and in order to do full justice to the parties, it was prayed that permission be granted to the respondent to lead his evidence through his Special Power of Attorney, i.e., his son. The said application was opposed.

5. The Rent Controller vide order dated 21.11.2024 allowed the said application and in the said order, it was observed that on an earlier occasion, the Court had given directions to the Incharge, Head of the Hospital, Abohar to constitute a Board of Doctors for examining the mental status of the respondent herein i.e., Krishan Lal and even the counsel was requested to appear before the Incharge/Head of Civil Hospital, Abohar, who was further directed to constitute a Board of Doctors for the purpose of adjudging the mental status of the said Krishan Lal. It was further observed that as per report of the Board of



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Doctors received, it was found that “*as per history, investigation and mental status examination (MSE), patient has Diffuse Cerebral Atrophy. He has Impaired Memory*” and that Dr. Mahesh Kumar, Psychiatrist, Civil Hospital, Abohar also appeared before the Court and had stated that the Board of Doctors after making necessary investigation of the body and mind of the respondent herein, had come to a conclusion that “*as per history, investigation and mental status examination (MSE), patient has Diffuse Cerebral Atrophy. He has Impaired Memory*”.

6. The order further notices the fact that the said witness has placed on record the copy of letter Ex.CW-1/A, film of MRI Ex.CW-1/B, MRI report Ex.CW-1/C, report of the Board Ex.CW-1/D and the application to submit this report Ex.CW-1/E. Importantly, the Court also recorded the fact that the counsel for the parties had stated, at bar, that they do not wish to lead any evidence with regard to the mental status of the petitioner-Krishan Lal and thus, in view of the report of the Board of Doctors and the statement of the doctor recorded in the Court, to which there was no contrary evidence, the Court had declared the respondent not fit to pursue the case due to his mental condition and the application was allowed.

7. On a pointed query raised by this Court, learned counsel for the petitioners fairly submitted that the directions were given by the Rent Controller on an earlier date to the Incharge/Head of Civil Hospital, Abohar to constitute a Board of Doctors for adjudging the mental status of the respondent herein. However, the said order has not been placed on record and has also not been challenged.

8. The impugned order has been based on the basis of the report submitted by the Board of Doctors from the Civil Hospital, Abohar and no



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specific challenge has been made to the said report, which had been duly placed on the record, nor any objection to the said report was made before the Rent Controller on behalf of the petitioners. There is no evidence to suggest that the said report is incorrect and rather in the impugned order, it has been recorded that even the counsel for the petitioners has stated at bar that he did not wish to lead any evidence with regard to the mental status of the respondent-Krishan Lal. The counsel for the petitioners herein had not even prayed before the Rent Controller that he wanted to cross-examine the Doctor or any of the members of the Board of Doctors who had prepared/submitted the said report. Thus, the impugned order has been rightly passed and does not call for any interference.

9. That the argument sought to be raised by learned counsel for the petitioners by relying upon the Special Power of Attorney would also not further the case of the petitioners. A perusal of the Special Power of Attorney would show that the respondent is stated to be 85 years of age and further has specifically stated in the 4th line of the said Special Power of Attorney that he has medical illness and it is on the said account that he had appointed his son- Ateet Gulhati for giving evidence and that the said son was personally knowing each and every fact of the case.

10. In light of the above, there is no infirmity in the impugned order dated 21.11.2024 (Annexure P-11) passed by the Rent Controller and the same is upheld and the present petition is found to be meritless, and accordingly, the same is dismissed.

05.12.2024
D.Bansal

(VIKAS BAHL)
JUDGE

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