



CR-5514-2023

-1-

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

(223)

CR-5514-2023

Date of Decision: - 20.01.2025

Chander Shakher**....Petitioner****Versus****Sudhir Kumar and another****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Deepak Aggarwal, Advocate,
for the petitioner. (Through VC).

None for the respondents.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned orders dated 05.07.2023 and dated 21.08.2023 passed by the Rent Controller, Samrala. Prayer is also for grant of one opportunity to the petitioner to produce PW-3/Naresh Kumar, Naksha Nawis, for the purpose of cross-examination.

2. Learned counsel for the petitioner has submitted that the petitioner is the landlord and had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act for the ejectment of the respondent from the part of the house in question and thus, delay, if any, in the proceedings would primarily cause prejudice to the petitioner. It is

**CR-5514-2023****-2-**

further submitted that the petitioner had tendered the evidence of Naresh Kumar Khera, Naksha Nawis, on 14.08.2019 and the case was adjourned to 23.09.2019 and thereafter to 22.10.2019, 16.12.2019 and subsequently to 11.02.2020 for cross-examination of the said witness, however in view of the Covid-19 Pandemic, the dates were given without calling the litigant and thereafter, the Court issued notice to the parties for their appearance and thereafter, on 19.04.2022, the cross-examination of the petitioner was completed and inadvertently, the oral evidence of the petitioner was closed by the counsel without producing the said PW-3 for the purpose of cross-examination. It is submitted that the petitioner had moved an application for producing the said witness for the purpose of cross-examination but the Rent Controller vide order dated 05.07.2023 dismissed the said application and while deciding the said application, had observed that no application for additional evidence had been presented in the present case and that the said site plan was prepared by Kewal Krishan, Draftsman, who had expired.

3. It is submitted that thereafter the petitioner had moved an application for additional evidence giving all the details however the said application was also dismissed vide order dated 21.08.2023. It is further submitted that on account of the death of Kewal Krishan, Draftsman, it was necessary for the petitioner to produce evidence of someone who could recognize the signatures of the said Draftsman and accordingly, PW-3 Naresh Kumar was produced and his evidence-in-chief had already been tendered and only his cross-examination is to be conducted and in



CR-5514-2023

-3-

case his cross-examination is not conducted, then, serious prejudice would be caused to the case of the present petitioner, who is the landlord. It is reiterated that although the delay would primarily cause prejudice to the petitioner but he is ready to pay reasonable costs to the respondent on account of the said delay.

4. The Co-ordinate Bench of this Court vide order dated 19.09.2023 was pleased to pass the following order: -

Present: Mr. Deepak Aggarwal, Advocate, for the petitioner.

Learned counsel for the petitioner submits that earlier application was moved by the petitioner to produce and cross-examine PW3-Naresh Kumar Khera, Naqsha Nawis, Samrala, but it was dismissed vide order dated 05.07.2023 on the ground that it was vague. At that time, said order could not be challenged. Another application was filed and the same was also dismissed vide order dated 21.08.2023. Petitioner seeks one more opportunity.

Notice of motion to respondent No.1 only at this stage, for 12.12.2023.

Dasti as well.

In the meantime, passing of final order shall remain stayed.

September 19, 2023”

5. In spite of service, no one had appeared on behalf of the respondent on 29.05.2024 and even today no one has appeared on behalf of the respondent to oppose the present revision petition and the prayer made by learned counsel for the petitioner.

6. Keeping in view the above-said facts and circumstances, which have been highlighted by learned counsel for the petitioner and have not been rebutted on behalf of the respondent and also in view of the

**CR-5514-2023****-4-**

fact that the petitioner had already examined the said Naresh Kumar as PW3 and also the fact that delay in the proceedings would primarily cause prejudice to the petitioner as it is him who has filed the petition under Section 13 of the East Punjab Urban Rent Restriction Act, the present revision petition is partly allowed and the impugned orders dated 05.07.2023 and 21.08.2023 are set aside and the petitioner is granted one opportunity to produce the said PW3 before the Rent Controller, within a period of 15 days from today and on the said witness being produced, the Rent Controller would give an opportunity to the respondent to cross-examine the said witness Naresh Kumar. The same would be subject to the petitioner depositing the cost of Rs.5,000/- within a period of 15 days from today and on his doing so, the same would be released by the trial Court to the respondent.

7. It is made clear that in case the said PW3 is not produced by the petitioner within a period of 15 days from today or that the cost of Rs.5,000/- is not deposited by him within the said period, then, the present revision petition would be deemed to have been dismissed.

January 20, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
 Whether reportable?

Yes/No
 Yes/No