**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****128****CR-2287-2026 (O&M)****Date of decision: 11.03.2026****Jasbir Singh****...Petitioner(s)****Vs.****Ajay Kumar****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Deepak Sharma, Advocate for the petitioner.

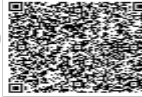
Mr. Mohit Sharma, Advocate for the respondent.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of Constitution of India has been filed by the tenant against the order dated 20.01.2026 (Annexure P-5) passed by the learned Rent Controller, Amritsar; whereby application filed by the respondent/landlord to replace his Affidavit of examination-in-chief, has been allowed.

2. Mr. Sukhjit Singh, Advocate appears on behalf of the respondent and files memo of appearance in Court today, which is taken on record.

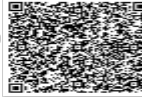
3. Brief facts of the case are that respondent/landlord had filed Rent Petition No. 385 dated 07.08.2019 seeking ejectment of the petitioner from the demised premises. During the course of trial, respondent/AW3 had filed Affidavit of examination-in-chief dated 03.08.2023 Ex.AW3/A (Annexure P-1). However, as the said Affidavit of



the respondent was unsigned although attested by Oath Commissioner, the respondent had moved an instant application dated 23.07.2024 (Annexure P-3) to replace the said Affidavit. The petitioner had filed reply in July 2024 (Annexure P-4) to the above said application. Vide the impugned order dated 20.01.2026 (Annexure P-5), the said application of the respondent has been allowed.

4. Learned counsel for the petitioner submits that in passing the impugned order, learned Rent Controller failed to appreciate that the trial was at advanced stage when the instant application was moved by the respondent for replacing his Affidavit of examination-in-chief. The cross-examination of the respondent by the petitioner had taken place on 01.03.2024 (Annexure P-2); and it is thereafter, that the present application has been moved on 23.07.2024. In fact the evidence of both the parties has completed and even the respondent has been cross-examined by the petitioner. It is submitted that at this belated stage, the application of the respondent was not maintainable and was filed with a malafide intent only to delay the trial. The present application has been filed by the respondent only to fill up lacuna in his evidence.

5. It is submitted by learned counsel for the petitioner that the learned Rent Controller gravely erred in permitting the Respondent to replace his affidavit of examination-in-chief (Ex.AW-3/A) after the Respondent had already been cross-examined and the evidence of both parties stood closed. During cross-examination on 01.03.2024, the



Respondent had categorically admitted on oath that the said affidavit was unsigned and did not bear his signatures on any page.

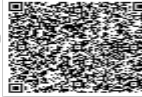
6. Ld. counsel further submits that an affidavit of examination-in-chief which is neither signed nor sworn is non est in the eyes of law and has no evidentiary value. The defect in the present case was not a mere technical irregularity but a fundamental defect going to the root of admissibility of the Respondent's evidence, which could not have been permitted to be cured at a subsequent stage of the proceedings.

7. It is further submitted by learned counsel for the petitioner that permitting replacement of an unsigned affidavit after cross-examination and closure of evidence amounts, in effect, to allowing a fresh examination-in-chief, which is impermissible in law and contrary to the settled principles governing trial procedure.

8. It is further submitted by learned counsel for the petitioner that the condition imposed in the impugned order that no new facts or circumstances shall be mentioned in the replaced affidavit is illusory and unenforceable, and the very act of permitting replacement at this stage opens the door to re-opening of evidence, prolonged litigation, and abuse of the process of law.

9. It is accordingly prayed that impugned order be set aside.

10. *Per contra*, learned counsel for the respondent submits that pursuant to the impugned order dated 20.01.2026, respondent had replaced his Affidavit of examination-in-chief. It is submitted that the said Affidavit is verbatim as the previous Affidavit and no new facts have



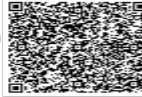
been added therein; and only the signatures of the respondent have been affixed upon the said Affidavit, which had inadvertently been omitted in the previous Affidavit. It is submitted that therefore, no prejudice whatsoever has been caused to the petitioner; and the present Revision Petition is misuse of due process and deserves to be dismissed.

11. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the petitioner.

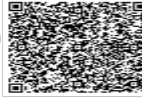
12. On a direct Court query, learned counsel for the petitioner has admitted that the Affidavit replaced by the respondent is verbatim the same and identical as the previous Affidavit, and only signatures of the respondent have now been appended. It is submitted that however vide the impugned order, petitioner has been given opportunity to cross-examine the respondent again only *“If any fresh fact or new circumstance added to the amended/addition Affidavit.”* Learned counsel contends that in view of the fact that a fresh Affidavit has been filed by the respondent, the petitioner ought to have been granted an opportunity to cross-examine the respondent again.

13. I find new merit in the said contention. Vide the impugned order dated 20.01.2026, learned Rent Controller has observed/directed as follows: -

“Perusal of the file reflects that AW-3 Ajay Kumar has been examined by applicant and he has also been cross-examined.”



However, there are no signatures on his affidavit tendered on dated 03.08.2023. It is well settled law that Rule governing pleadings and leading of evidence have been incorporated to advance the interests of justice and to avoid multiplicity of litigation. The additional evidence or change in pleadings is generally allowed in civil law unless it is shown that permission of same would be unjust and result in prejudice against the opposite side which cannot be compensated by costs or would deprive him of a right which has accrued to him with the lapse of time. Coming to the present set of facts and circumstances, no doubt, the application in hand has been moved after the cross-examination of said witness i.e. AW's. However, it is not the case that witness has not appeared before the court after his evidence has been tendered. Opposite party has been given due opportunity to cross-examine the said witness. Therefore, certainly for removing technical defect in the evidence so tendered by the applicant, it is required that affidavit is to be signed by the said witness and hence, the application in hand deserved to be allowed as due to inadvertence or negligence the applicant must not be prevented from bringing on the record which is necessary for effective adjudication of the case. Further, for lackadaisical approach on part of applicant, defendant can be compensated with costs. Accordingly, present application in hand stands allowed, subject to payment of cost of Rs. 1000/- to be paid by applicant. Further, it is made clear that no new fact or circumstance is to be mentioned in the new affidavit of AW-3 and only the permission is granted qua signatures on the additional/replaced affidavit. It is also made clear that respondent would be given opportunity to cross-examine the

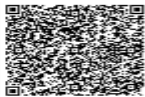


said witness, if any fresh fact or new circumstance added to amended/additional affidavit.”

14. A bare reading of the above operative part of the impugned order shows that the learned Rent Controller has merely granted opportunity to the respondent to rectify technical defect in the Affidavit of evidence submitted by the respondent. Learned Rent Controller has further very justifiably observed that in case any fresh fact or new circumstance is added to the previous Affidavit filed by the respondent, the petitioner will be granted opportunity to cross-examine the respondent again. However, as noted above, the petitioner on Court query has candidly and categorically admitted that fresh Affidavit filed by the respondent is verbatim identical in its submissions as the previous Affidavit; and in the fresh Affidavit, only signatures of the respondent have been affixed. In this view of the matter, there was no occasion or requirement for grant of opportunity to the petitioner to again cross-examine the respondent.

15. Petitioner has also been unable to make out that any prejudice caused to him in curing the said technical defect in permitting the respondent to affix his signatures upon the Affidavit of evidence.

16. Accordingly, I find no ground is made out that calls for interference in the impugned order. The present Civil Revision Petition is **dismissed.**



17. Pending application(s), if any, also stand(s) disposed of.

11.03.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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