

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

161

CR-5607-2023(O&M)

Date of decision: 03.10.2023

Sheikh Kutubdin

....Petitioner

Versus

Balwinderjit Singh Sandhu

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Anuj Thakur, Advocate for the petitioner.

AMARJOT BHATTI, J.CM-18007-CII-2023

This is an application u/s 151 C.P.C. for placing on record the copies of zimni orders as Annexure P-12 and P-13.

For the reasons stated in the application, the same is allowed. The accompanying documents as Annexure P-12 and P-13 are taken on record.

CM stands disposed of.

CR-5607-2023

1. The petitioner – Sheikh Kutubdin has filed revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 18.08.2023 passed by the learned Civil Judge (Junior Division), Chandigarh vide which the defence of the petitioner/tenant has been struck off for filing written statement.

2. Learned counsel for the petitioner argued that the case was fixed for filing reply to the application and to supply documents to the present petitioner then suddenly it was observed by the learned Rent Controller, Chandigarh that the written statement has not been filed for a

period of more than 90 days. therefore, the defence was struck off vide order dated 18.08.2023. It is pointed out that the case was not fixed for filing of written statement in fact Balwinderjit Singh Sandhu, the petitioner in the main case was to file reply and further to supply documents to the present petitioner, therefore, the impugned order is not justified and the same is liable to be set aside by giving appropriate directions to the learned Rent Controller, Chandigarh.

3. I have considered the arguments and have gone through the record. The perusal of *zimni* order dated 07.04.2022 (Annexure P-12) shows that the case was fixed for *ex parte* evidence when the counsel for respondent appeared and filed application for setting aside the *ex parte* order dated 08.11.2021. The case was again adjourned for filing of reply to this application. Ultimately, the *ex parte* order was set aside subject to payment of cost vide order dated 04.07.2022. The case was fixed for filing of written reply to the petition for the first time for 04.08.2022. On this date the reply was not filed and one application was filed for giving direction to the petitioner to supply the documents attached with the petition. Copy was given to the opposite counsel and thereafter, the case was adjourned for filing of reply to the said application for six times and thereafter, on 18.08.2023 the learned Rent Controller, Chandigarh again mentioned that reply to that application is not filed with the prayer to supply documents attached with the petition. It was observed by the learned Rent Controller that written statement has not been filed despite given eight effective opportunities and statutory period of 90 days has already elapsed. Therefore, the defence of the present petitioner was struck off by passing the impugned order. The perusal of *zimni* orders Annexure P-5 to P-11 clearly indicates that every time the case was

adjourned for filing reply to the said application. After supply of relevant documents attached with the petition it would have been possible for the present petitioner to file effective written reply. Instead of disposing of the said application suddenly the defence of the present petitioner has been struck off.

Therefore, considering the aforesaid factual position, I find merits in the present revision filed by the petitioner and the same is allowed with the direction to the learned Rent Controller, Chandigarh to firstly dispose of the application filed by the present petitioner/respondent in the main case for supply of documents and thereafter, one reasonable date be given for filing of written reply to the main petition.

Accordingly, the civil revision is disposed of.

03.10.2023

Sunil Devi

(AMARJOT BHATTI)
JUDGE

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