

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CR No. 10 of 2006.

Date of Decision: 22nd June, 2006.

ICICI Bank

... Petitioner.

Versus

M/S. Allied Engineering and Construction Company and others.

... Respondents.

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?¹ No.

For the petitioner: Mr. R.L. Sood, Senior Advocate with Mr. Vikas Rajput, Advocate.

For respondents 2 to 8: Mr. Ashok Sood, Advocate.

Deepak Gupta, J. (Oral)

This revision is directed against the order of Rent Controller (II), Shimla, dated 18.3.2003 closing the evidence of the petitioner-landlord on the additional issues framed by the learned Appellate Authority on which findings were called from the Rent Controller.

From the record, it is apparent that on 18.3.2003, in the earlier part of the day, the witness Shri L.D. Pal was not present. However, in the afternoon an application was moved signed by Shri L.D. Pal and accompanied by an affidavit duly sworn by him that he was unable to attend the Court in the morning since he suffered a medical problem. The Rent Controller has rejected this application on the ground that the learned Appellate Authority had directed it to dispose of the petition expeditiously within a period of six months. Earlier also two opportunities had been given to the landlord to produce its evidence, but one fact which has to be noticed is

¹ Whether the reporters of Local Papers may be allowed to see the judgment? Yes .

that after the findings were called for by the learned Appellate Authority the matter was again agitated before the Appellate Authority for permission to amend the pleadings and most of the time was spent in those proceedings.

Keeping in view the entire facts and circumstances of the case and the fact that the witness did appear in the latter half of the day and could have been examined, the landlord-petitioner is permitted to examine Shri L.D. Pal, the witness who was present on 18th March, 2003. It is made clear that the landlord shall not be permitted to examine any other witness on the additional issues and shall not be permitted to summon or examine any other witness. The landlord may, however, tender documents which can legally be tendered and can be admitted in evidence without formal proof. This opportunity is granted to the landlord subject to payment of Rs.5,000/- as costs. The costs be deposited with the Secretary, District Bar Association, Shimla. The parties through their learned Counsel are directed to appear before the Rent Controller (II), Shimla on 12th July, 2006.

The Registry is directed to send back the entire record including that of the Appellate Authority to the Rent Controller (II), Shimla. The Rent Controller is directed to fix a date for the statement of Shri L.D. Pal in the month of July itself and thereafter to proceed as per the directions of the Appellate Authority and to return the findings on the additional issues expeditiously to the learned Appellate Authority as possible and in any event not later than 31st October, 2006. The petition is disposed of in the aforesaid terms.

Copy **DASTI.**

June 22, 2006
(rc)

**(Deepak Gupta),
Judge.**