



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-6981-2024
Date of decision : 02.12.2024

Haroon @ Haroon Rasheed

... Petitioner

Versus

Mohd. Nazir (now deceased) represented by his heirs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Jai Bhagwan, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 23.08.2024 (Annexure P-6) passed by the Rent Controller, Malerkotla, vide which the application filed by the petitioner for setting aside the order dated 31.05.2022 vide which the petitioner was proceeded against ex-parte, has been partly allowed to the extent that he was permitted to join the proceedings.
2. Learned counsel for the petitioner has submitted that petitioner was respondent no.2 in the eviction petition and had an independent right to oppose the eviction petition filed by the landlords. It is submitted that the petitioner is residing separately from his brother respondent no.3 (in the eviction petition) and thus, because respondent no.3 had been served, the same could not be taken as a ground that respondent no.2 had also been served. For the said purpose, the petitioner has referred to the Aadhar card, which is annexed as Annexure P-3. It is submitted that the petitioner learnt



about the ex-parte order on 04.08.2024 when Mohd. Ikhlq (landlord - respondent no.2 herein) had threatened the petitioner that he would be evicted from the shop in dispute and thereafter, the petitioner started searching on the website of the Court and found that an ex-parte order dated 31.05.2022 has been passed. It is submitted that the petitioner has only been permitted to join the proceedings from the stage when the impugned order had been passed whereas the petitioner should be permitted to file a written statement and also to cross-examine all the witnesses which have been examined by the landlords.

3. This Court has heard the learned counsel for the petitioner and has perused the paper book and is of the opinion that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed.

4. Apparently in the present case, the petitioner, who is the brother of Iftkhar Ali son of Mohd. Ali who is shown as respondent no.3 in the eviction petition, is playing hide and seek with the Court in collusion with his brother Iftkhar Ali. Respondents no.1 and 2 herein had filed an eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 from the premises in question, which is a shop, on 03.11.2021. In the said application, in addition to the present petitioner, four brothers of the present petitioner, sister of the present petitioner and mother of the present petitioner were impleaded as party. The same was done because as per the case of the landlords, Mohd. Ali, who was the predecessor-in-interest of respondents no.1 to 7 (before the Rent



Controller), had taken the premises in question and after his death, respondents no.1 to 7 (before the Rent Controller) were his legal representatives. It is not in dispute that Iftkhar Ali, son of Mohd. Ali, who is the brother of the present petitioner and was shown to be the resident of Sunami Gate, Malerkotla, which was also the residential address mentioned for the present petitioner in the rent petition, was duly served and had filed his reply dated 31.10.2022. A perusal of the said reply would show that he had admitted the fact that Mohd. Ali had died and after his death, the answering respondent was in possession of the shop in question and was carrying on his business. A perusal of the zimni orders, moreso, zimni order dated 31.01.2022 would show that even respondent no.1 before the Rent Controller i.e., Mohd. Shahid, who is also the brother of present petitioner and abovesaid Iftkhar Ali, had been served but he had not come present. The present petitioner along with the other two brothers was also served through their brother Iftkhar Ali. Nothing has been shown to this Court that service through brother is not due service. Moreover, as a matter of abandoned pre-caution, the Court also issued munadi and the said munadi was also duly effected as is apparent from the order dated 31.05.2022.

5. It is not in dispute that the landlords have examined all their witnesses and the brother of the petitioner, who is one of the legal representative of Mohd. Ali, has already cross-examined the said witnesses. The petitioner in order to delay the proceedings moved an application on 06.08.2024 after a period of more than 2 years from the date the petitioner was proceeded against ex-parte i.e., 31.05.2022. The plea taken in the



application in paragraphs 4 and 5 by the petitioner is on the face of it, a false plea. Paragraphs 4 and 5 of the said application are reproduced hereinbelow:-

“4. That respondent no.2 (Haroon Rasheed) for the first time came to know about the exparte order dated 31/05/2022, When (04/08/2024) the applicant (Mohd Akhlaq) threatened to respondent no.2 (Haroon Rasheed) to evict the shop in dispute saying that he will going to get the exparte eviction order of shop in dispute from the court.

5. That on 04/08/2024, the respondent no.2/applicant (Haroon Rasheed) came to know about the exparte order dated 31/05/2022 from web site of court. Applicant have filed present application today which is within limitation from the date of knowledge of the exparte order dated 31/05/2022.”

6. In the reply to the said application, it has been specifically averred by the landlord that the present petitioner had never met landlord-respondent No.2 herein on 04.08.2024 and therefore, the question of threatening the present petitioner does not arise. It defies logic as to why a landlord after an ex-parte order qua the present petitioner has been passed on 31.05.2022 and the proceedings are pending, would go up to the present petitioner to warn him that the landlord would obtain an ex-parte eviction order against him. Moreover, even if the above plea is taken on its face value, no details of the case were given to the petitioner and the petitioner has not even stated as to on what basis he was able to find out about the details of the present case including the Court in which the case was pending. The sole purpose of filing the application, thus, apparently is to set the clock back to 2022 so as to delay the proceedings instituted by the



landlords for eviction under Section 13 of the East Punjab Urban Rent Restriction Act in which one of the grounds raised by the landlords is of bonafide requirement. In the said circumstances, the trial Court has rightly permitted the petitioner to join the proceedings from the stage, where the said proceedings are pending. The ex-parte order dated 31.05.2022 has been rightly passed. It is apparent that the petitioner was aware of the entire proceedings and was correctly proceeded against ex-parte.

7. The reliance sought to be placed by the petitioner on the Aadhar card, which gives the house number of the petitioner as House No.566, Ward No.26, Mohalla Deewan Sahib, Sunami Gate, Satta Bazar, Malerkotla, Sangrur, Punjab also does not further the case of the petitioner as the petitioner has not been able to establish that he is residing separately from his brother. No Aadhar card or details of the address of the brother of the petitioner i.e., Iftkhar Ali who is pursuing the case, has been annexed with the present petition.

8. On a pointed query raised by this Court, learned counsel for the petitioner has fairly submitted that the said Aadhar card was not annexed with the application dated 06.08.2024 (Annexure P-4) before the Rent Controller. Moreover, a perusal of the address given in the eviction application dated 03.11.2021 would show that all the respondents no.1 to 7 are stated to be residents of Sunami Gate, Malerkotla and even the present petitioner's Aadhar card shows that the petitioner also resides in Sunami Gate, Malerkotla.

9. A perusal of the zimni order dated 31.01.2022 would show that



the brother of the petitioner i.e. Iftkhar Ali had been served on the said address and had appeared through his counsel and even Mohd. Shahid, who was respondent no.1 in the eviction petition, whose address has also been given as Sunami Gate, Malerkotla, was stated to have been served although he did not choose to appear. The present petitioner was stated to be served through his brother, which has not been shown to be not due service by the counsel for the petitioner.

10. At any rate, the facts of the case clearly demonstrate that the petitioner with his brother, is playing hide and seek and has now moved an application, after the cross-examination of the witnesses of landlords has been done, with the sole purpose of delaying the proceedings. Accordingly, the impugned order dated 23.08.2024 is in accordance with law and deserves to be upheld and the present petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

December 02, 2024.
Davinder Kumar

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