

CR No.1032 of 2015

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

**CR No.1032 of 2015
Date of decision:16.02.2015**

Kailash Chand

...Petitioner

Versus

Anita Rani and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. S.K.Biriwal, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is aggrieved against the orders of the Courts below, dismissing his objection, filed in the execution application of the respondents/decreed-holders.

In brief, the respondents filed a petition for seeking eviction of the petitioner-tenant from two Khani Shop bearing No.552/3, Bus Stand Road, Sohna, District Gurgaon. The eviction petition was allowed on 28.03.2012 and the appeal filed by the petitioner-tenant was dismissed on 11.12.2012. The respondents/decreed-holders filed the execution application on 24.12.2012 in which warrant of possession was issued. In the meantime, the tenant's revision was dismissed by this Court on 26.02.2013 and he was given 6 months' time to vacate the demised premises and to hand over its vacant possession to the decree-holders but before the expiry of the said 6

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months, one Pardeep filed the suit for permanent injunction on 22.05.2013 on the ground that he had taken the demised premises on rent on 25.04.2013 from the judgment-debtor/tenant. Pardeep had also filed objection in the execution application, dismissed on 31.10.2013 and warrant of possession was issued with the help of police, after breaking open the locks/door of the shop but it could not be executed and on 28.01.2014, the present petitioner filed the objection, alleging that there is an agreement to sell in his favour, purported to have been executed by the decree holders on 26.10.2006, for a consideration of ₹35 lacs. The possession was delivered to him on 24.12.2013 and since then he is in possession. It was submitted by him that he cannot be dispossessed from the demised premises because there is no decree/order against him. The story propounded by the petitioner was not believed by both the Courts below rather the lower Appellate Court dismissed the appeal with costs of ₹2,000/-.

Counsel for the petitioner has argued that the learned Courts below have committed an error as the objection filed by the petitioner is not covered by Order 21 Rule 99 of the Code of Civil Procedure, 1908 (here-in-after referred to as the "CPC") rather the objection has been filed under Order 21 Rule 58 of the CPC.

After hearing learned counsel for the petitioner and examining the available record carefully, I am of the considered opinion that there is no merit in the submissions made by learned counsel for the petitioner because his possession over the demised premises is a cock and bull story. The respondents/decreed-holders have been trying their level best to take

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possession of the demised premises from the petitioner-tenant, who made the statement in this Court on 26.02.2013, that he would vacate the demised premises within six months but instead of delivering the possession to the decree-holder/landlords, he projected one Pardeep as his tenant on 25.04.2013 who even filed objection being a third party in possession and also filed a civil suit for injunction but his objection was dismissed on 31.10.21013 and, thereafter, the present petitioner has filed the objection claiming himself to be in possession in terms of the agreement to sell dated 26.10.2006 which has rightly not been believed by both the Courts below.

In view of the aforesaid discussion, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.

February 16, 2015
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(Rakesh Kumar Jain)
Judge