

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

107 (2 cases)

1. Civil Revision No.1173 of 2013 (O&M)
Date of Decision: October 06, 2015

L.D. Malachi

...Petitioner

Versus

Kiran Oberoi alias Kiran Kumar and others

...Respondents

2. Civil Revision No.1210 of 2013 (O&M)

L.D. Malachi

...Petitioner

Versus

Kiran Oberoi alias Kiran Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. C.B. Goel, Advocate
for the petitioner.

Mr. Mohit Jaggi, Advocate
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

By this order, I propose to dispose of Civil Revision Nos.1173
and 1210 of 2013.

Both these revision petitions have been preferred challenging
the eviction order passed by the Rent Controller, Chandigarh, dated
07.01.2010 by which only one ground for eviction was accepted i.e.
non-payment of rent and the ground of personal necessity was rejected,
against this order, appeals were preferred by both the parties, whereby the
Appellate Authority, Chandigarh, by order dated 11.12.2012 accepted the
appeal of the respondents-landlord on both the grounds i.e. personal

necessity as well as non-payment of rent, however, liberty was granted to the petitioner to tender the arrears of rent within some specified time, which amount, as per the counsel for the petitioner, has been tendered and, therefore, as per the order of the Appellate Authority, only ground which exists as of today is the personal necessity of the respondents-landlord.

The case had come up for hearing before this Court on 08.01.2015 when the following order was passed:-

“Counsel for the petitioner, after instructions from the petitioner, has submitted that necessary affidavit will be filed regarding the vacation of the premises, provided that time is granted till 31.12.2015.

Counsel for the respondents is not averse to the granting of time to the petitioner.

Accordingly, let necessary affidavit be filed by the petitioner within a period of one week.

To come up on 21.01.2015.

Photocopy of this order be placed on the record of the other connected case”.

As per this order, the petitioner was to submit the affidavit with regard to vacation of the premises within a period of one week, stating therein that he would vacate the premises on or before 31.12.2015.

On 21.01.2015, following order was passed:-

“Written request has been circulated on behalf of counsel for the petitioner.

Order dated 8.1.2015 remains uncomplied with.

Adjourned to 9.2.2015.

Photocopy of this order be placed on the record of connected case file”.

Thereafter on 09.02.2015, the same position persisted as the affidavit had not been submitted.

On 28.07.2015, the order was passed by this Court is

reproduced below:-

“The petitioner shall give an undertaking that he will vacate the premises by 31.12.2015 as already undertaken by him. If the undertaking is not given, the order of eviction will operate. The petitioner will have no audience to argue the case on merits.

Adjourned to 24.09.2015.

A photostat copy of this order be placed on connected case”.

Then again the matter was taken up for hearing on 24.09.2015 when this Court passed the order which is reproduced hereinbelow:-

“The petitioner, in compliance with the order dated 28.07.2015, has not filed any undertaking that he would vacate the premises by 31.12.2015 as already undertaken by him on 08.01.2015. It was further mentioned in the order dated 28.07.2015 that if the undertaking is not given, the order of eviction will operate and the petitioner will have no audience to argue the case on merits.

In view of the above, the revision petition itself deserves dismissal. However, as Mr. C.B. Goel, learned counsel for the petitioner, is stated to be out of station because of some personal work and an adjournment on his behalf has been prayed for, the case is adjourned to 01.10.2015.

A photocopy of this order be placed on the file of connected case”.

On 01.10.2015, case was adjourned to 06.10.2015.

Today when the case is again taken up for hearing, counsel for the petitioner states that because of ill health of the petitioner, the petitioner is not present today in Court. He, however, could not dispute the fact that till date, the affidavit, which was required to be submitted as per the order dated 08.01.2015, has not been filed.

Counsel for the petitioner has insisted upon hearing the case on merits but the said request cannot be accepted in the light of the orders dated 08.01.2015 and thereafter 28.07.2015, which have been reproduced above.

In the light of the above, this Court is left with no option but to dismiss these revision petitions.

Ordered accordingly.

In the light of the dismissal of the petitions, the applications for stay i.e. CM Nos.4365-CII and 4489-CII of 2013, stand disposed of as infructuous.

October 06, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE