

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

Civil Revision No.3140 of 1999 (O&M)

Date of decision: 08.07.2015

Joga Singh

.... Petitioner

versus

Avtar Singh Kalsi

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Manjot Singh, Advocate,
for the petitioner.

None for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petition has been pending consideration for the last 16 years for an act which I will attribute wholly to the petitioner. He has been grossly unfair but he will still have the benefit of favourable orders from this court only because the order of the Rent Controller cannot be legally supported.

2. A tenant, who suffered an ex parte order of ejectment, moved an application for setting aside an ex parte order. Pending application, he sought for stay of the execution of the order but in the meanwhile, it would appear that the landlord had applied for

warrant of possession and it was before the bailiff that the tenant still caused an obstruction. He filed a petition before court for opening the locks which have been cast alongside his own locks. The court had actually even recalled the warrant but since the bailiff had purported to have made some documentation as though the property had been delivered, the matter was required to be adjudicated on whether the tenant's prayer for unlocking the premises that had been locked alongside his own lock would be considered favourably for him or not. A Local Commissioner had been appointed who reported that there were 3 locks, 2 of which had the keys in the hands of the tenant which were opened in his presence and the keys for one of the locks were with the landlord which was opened by the landlord. With this report, the matter went back to the court for consideration and the court held that the property had been delivered and the prayer sought for by the tenant cannot be granted.

3. I find the order to be wholly wrong. When it had recalled the warrant but the bailiff had purported to cause the delivery, the court must have only considered the issue of a quick disposal of the application for setting aside the ex parte order of eviction. Instead, it chose to aggravate the issue for the tenant by dismissing the application which has given a favourable handle for a tenant to approach this court, obtained an order of stay and sit tightly

on that order for the last 16 years. It surely suited the convenience of the tenant to allow this case to languish, for, he was able to protect his possession and that was all he was bargaining for. If the petition had been considered on merits, he would have probably moved on two of the tiers of the court and would have come to conclusion. We are nowhere near the completion of the trial. Indeed even an application to set aside an ex parte order of eviction passed is still awaiting adjudication. The court below had caused an injustice to be perpetrated against the tenant and nemesis will catch up for the tenant, if his conduct were unjust. He was able to apply to this court and secure the benefit of stay for all along. He comes by a favourable order not by his conduct but by the untenability of the order that was passed by the court below.

4. The impugned order is set aside and the revision petition is allowed. The court before which the application for setting aside the ex parte order is pending shall take it up immediately and will make endeavour to dispose it of as quickly as possible. If on any date, the tenant asks for time for letting in evidence, it shall be declined and the court shall proceed to pass order. The tenant will have no occasion before the court below for seeking for a time for adjournment for whatever reason. The court shall dispose of the application filed by the tenant for setting aside the ex parte order and report to this court of its disposal within 12 weeks from the date of

the order. All the papers are transmitted back to the court below and the Registry to inform the Presiding Officer to furnish the report after disposal of the application as directed.

(K.KANNAN)
JUDGE

08.07.2015
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