

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 1571 of 2015
Date of Decision: 04.3.2015.**

Lajwanti

.....Petitioner

Versus

Prem Chand (Since deceased)
through LRs and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Arihant Jain, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 10.2.2015 (Annexure P-9), whereby objections filed by the petitioner, were dismissed.

Learned counsel for the petitioner has submitted that in fact, petitioner was owner of the property in question on the basis of sale deed executed in her favour on 21.3.1995. Learned counsel has further submitted that respondents No. 1 to 5 had filed suit for permanent injunction against the petitioner and Shankar Lal qua the property in question and qua the said suit, respondents No. 1 to 5 had failed to establish that they were owners of the property in question and the suit filed by them, was dismissed. Hence, the objection petition filed by the petitioner, was liable to be allowed.

Prem Chand (since deceased) had filed two petitions

under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 against Shankar Lal and Lajwanti-petitioner seeking ejectment of the premises in question. During the pendency of the petitions, Prem Chand died and his legal representatives were brought on record.

Case of the landlord, with regard to shop bearing No. 298-A/5 was that respondent Shanker Lal was in arrears of rent and the shop in dispute was in dilapidated condition and the value and utility of the shop had been materially impaired. It was further the case of the landlord that respondent Shanker Lal had ceased to occupy the premises in question and had sublet the same to petitioner Lajwanti. Petitioner in connivance with Shanker Lal had demolished the eastern wall of the shop in dispute. In the said case, reply was filed by Shanker Lal.

In the other case relating to another shop bearing No. 298/A-5, it was the case of the landlord that respondent Shanker Lal was in arrears of rent. In the said case, petitioner filed her reply that in fact, she was the owner of the shop in question as she had purchased the same vide registered sale deed dated 21.3.1995 and was in possession of the same as owner.

The Rent Controller vide order dated 3.4.2001 held as under:-

“In view of my findings on the aforesaid issues particularly on issues No. 1-B and 1-D, the petition is hereby accepted and the respondents are directed to hand over the vacant possession of the tenanted premises to the applicant within the period of 60 days from the date of decision of the petition. There is no order as to costs.

Memo of costs be prepared accordingly. File be consigned to the record room after due compliance.”

Thus, despite the plea taken by the petitioner that she was the owner of the property in question, the ejectment petitions filed by Prem Chand (since deceased) were allowed and the respondents (including the petitioner) were directed to hand over the vacant possession of the tenanted premises to the landlord.

During the execution proceedings, petitioner filed her objections. Case of the petitioner is that she was the owner of the premises in question and, therefore, the order passed by the Rent Controller could not be executed.

Petitioner placed reliance on decision given in Civil Suit No. RBT-74 of 2007 decided on 10.8.2009 (Annexure P-2). A perusal of Annexure P-2 reveals that respondents No. 1 to 5 had filed suit for permanent injunction against Shanker Lal and the petitioner that they should be restrained from demolishing the suit property. The said suit was dismissed by the Trial Court as respondents No. 1 to 5 had failed to establish that they were owners of the property in question and further it had also transpired that the property in question had already fallen and was in a dilapidated condition. The petitioner cannot base her claim to be owner of the property in question on the basis of observations made by the Civil Court in a suit for permanent injunction filed by respondents No. 1 to 5. In the suit for permanent injunction, the finding given by the Trial Court qua title of the property in question is not necessary to be given and, hence, on the basis of finding given in a suit for permanent injunction qua title, petitioner could not claim that the execution petition filed by respondents No. 1 to 5

qua execution of order Annexure P-1, was not maintainable. In fact, the petitioner should have challenged the decision given by the Rent Controller Annexure P-1. The Executing Court could not go behind the order passed by the Rent Controller. The Rent Controller vide Annexure P-1, had specifically ordered that the respondents (including the petitioner) are directed to hand over the vacant possession of the tenanted premises to the landlord. The Executing Court has to execute the decree as it is. Hence, the objections filed by the petitioner, were rightly dismissed by the Executing Court.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

March 04, 2015
Gurpreet