

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

**CR No.1604 of 2015
Date of decision : March 11, 2015**

Parminder Singh Sandhu

..... Petitioner

Versus

Maninder Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Devinder Kumar Kaushal, Advocate,
for the petitioner.

GURMIT RAM, J.

1. This revision petition under Article 227 of the Constitution of India has been filed by the petitioner-Parminder Singh Sandhu against the impugned order dated 07.02.2015 (Annexure P-3) passed by the Court of learned Civil Judge (Junior Division) SAS Nagar, Mohali vide which notice has been issued to the respondent/JD in respect of booth No.124, Phase X, SAS Nagar, Mohali in execution application No.11/2015 titled as Parminder Singh Sandhu vs. Maninder Singh instead of the warrants of possession. This order is stated to be erroneous, without any cogent reason, perverse as well as against the provisions of Order 21 Rule 22 of the CPC. Prayer has

been made to set aside the impugned order and to direct the Executing Court to issue warrant of possession qua abovesaid booth.

2. Brief background of this revision petition is that the present petitioner filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short “the Act”) against the respondent for his ejectment from the demised booth on the ground of non-payment of rent and sub-letting. Tenant-respondent was served and appeared. He also filed written statement.

3. Thereafter the learned Rent Controller made provisional assessment of rent vide order dated 27.10.2014 and came to the conclusion that total arrears of rent on the basis of provisional assessment was ₹4,92,840/- qua the period 01.08.2013 to 31.10.2014 including the interest amount and cost of litigation. Tenant was directed to pay this amount on 28.11.2014. On this date he defaulted to make the payment and as such the learned Rent Controller while following the ratio of case law titled as **Rakesh Wadhawan and others vs. M/s Jagdamba Industrial Corporation and others, reported as 2003(2) CCC 361**, ordered ejectment of the tenant from the demised premises and directed him to handover the vacant possession of demised premises by 15.01.2015 to the landlord.

4. Since the tenant did not vacate the demised premises by the stipulated date, so the landlord was left with no other option except to file the execution application before the trial Court. On receiving this execution application, the learned Executing Court issued notice to JD for 02.05.2015 vide the impugned order.

5. The main grievance of the present petitioner in the nutshell is

that as per the provisions of Order 21 Rule 22 of CPC, the Executing Court was legally bound to issue warrant of possession for delivery of possession of demised booth to the decree holder instead of the simple notice. In this connection it is also the case of the petitioner that the ejectment order in this case is dated 28.11.2014 and the instant execution on its basis was filed on 07.02.2015, i.e. within 2 years of this order. The petitioner is stated to be 65 years old and a retiree. Further at the time of arguments learned counsel for the petitioner has also cited a case law as laid down in **C.Raghunatha Reddy vs. S.Rajasekaran, 2011(5) CTC 837** (Madras High Court).

6. So in the light of the above circumstances of this case, the impugned order is set aside and this revision petition stands disposed of with a direction to Executing Court to deal with the matter in issue strictly in accordance with the provisions of Order 21 Rule 22, CPC as well as the principle as laid down in the case law cited supra and to dispose of the same expeditiously preferably within a period of four months from the date of receipt of copy of this order.

7. Compliance report be sent.

March 11, 2015
Gaurav Sorot

(GURMIT RAM)
JUDGE