

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.2258 of 2013 (O&M)

Date of decision: 27.08.2015

Guriqbal Kaur

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Divanshu Jain, Advocate for the petitioner
Mr.T.N.Sarup, Addl.A. G.Punjab, for respondent No.1 to 3

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J.

Impugned in the present revision is the order dated 16.10.2012, passed by the learned Civil Judge, Junior Division, Chandigarh, vide which, during execution proceedings the objections filed by JD Nos.1 to 3 dated 7.11.2007 were allowed and it was held that execution of the decree holder stands fully satisfied and nothing is due towards JDs, as such, execution was dismissed as fully satisfied.

The background of the case is that the present petitioner/ plaintiff had filed a suit against the State of Punjab and others for recovery of Rs.7,69,626/- being the arrears of rent, out of which Rs.4,30,560/- is the rent and Rs.3,39,066/- is the interest @ 18% per annum calculated upto 15.7.1999 in respect of 1st and 2nd floor of

SCO Nos.151-152, Madhya Marg, Sector 8-C, Chandigarh. The said amount was claimed on account of damages for the period from 3.5.1995 to 31.10.1997. The lower Court decreed the suit and held that the defendants are liable to make the payment to the plaintiff @ Rs.14352/- per month w.e.f. 4.5.1995 to 31.10.1997 amounting to Rs.4,30,560/- along with interest @ 6% per annum from the date of filing of the suit till the date of decree. Future interest @ 12% per annum from the date of decree till actual realization was also allowed. In the appeal, filed by the defendants, the learned Additional District Judge, Chandigarh maintained the decree but reduced the future interest to 6% per annum.

Before the lower Court, the JD filed the objection stating that the trial Court as well the appellate Court assessed the damages @ Rs.3/- per square feet total Rs.14352/- per month w.e.f. 4.5.1995 to 31.10.1997. It was stated that the rent @ 0.80 paisa per square feet was already paid, therefore, the deficiency of rent is only Rs.2.20 per square feet. JDs have already paid the full amount of the decree on 23.7.2004 as per calculations mentioned in para No.4. The lower Court held that deficiency of rent was @ 2.20 paisa per square feet. Since the same has already been paid, therefore, the execution was dismissed as fully satisfied.

I have heard learned counsel for the parties and have carefully gone through the file.

Learned counsel for the petitioner has argued that the executing Court could not go behind the decree. Decree for recovery of Rs.4,30,560/- along with the interest @ 6% per annum was

passed. Therefore, the executing Court could not hold that the deficiency of the damages are @ Rs.2.20/- per square feet.

I am of the view that in the decree the damages were assessed @ Rs.3/- per square feet per month for the period from 4.5.1995 to 31.10.1997. It was never held by the lower Court as well as the first appellate Court that this Rs.3/- per square feet, is over and above the rent @ 0.80 paisa per square feet already paid. Therefore, the total damages for the unauthorized possession were assessed. In these circumstances, the rent paid for the said period, if any, has to be adjusted so that the total damages do not exceed Rs.3/- per square feet as assessed by the lower Court as well as first appellate Court. The JDs claimed that they have paid the full amount on 23.7.2004 as per calculation mentioned in para no.4 of the objections.

In these circumstances, I am of the view that there is no error in the order of the executing Court in deducting 0.80 paisa per square feet already paid as rent, out of Rs.3/- per square feet allowed as damages in the impugned decree. The balance amount of Rs.3,15,750/- has already been paid with costs and interest. Therefore, the decree has been satisfied and the objections were rightly allowed and execution was dismissed as fully satisfied.

I also do not find any force in the contention of learned counsel for the petitioner that the order of the executing Court amounts to going behind the decree. While executing the decree, the executing Court can always take into consideration the amount already paid by the JD to see whether the decree has been satisfied

or not. As such, the present revision is found to be without any force and is dismissed.

27.08.2015
gk

(Kuldip Singh)
Judge