

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2399 of 2014 (O&M)

Date of Decision.07.04.2015

Vijay Kumar Sharma

.....Petitioner

Versus

Dr. D.P. Gopal and another

.....Respondents

Present: Mr. A.S. Gulati, Advocate
for the petitioner.

Mr. Satinder Khanna, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

C.M. No.6334-CII of 2014

For the reasons stated in the application, delay of 7 days in
filing the revision petition is condoned.

Application is allowed.

C.R. No.2399 of 2014

1. The revision petition is against the order of ejectment passed ex parte by the Rent Controller and affirmed by the Appellate Court. The tenant did not think it necessary to file an application to set aside the ex parte decree of ejectment and chose to prefer an appeal. The Court was, therefore, considering the issue of whether the un rebutted version of the landlord complaining of non-payment of rent, misuse of property, unauthorized constructions and bona fide requirement were there on record could be supported to enter a finding

of ejectment. If the Rent Controller found that there was adequate proof and in appeal, the appellant could not make a dent in the order passed by the Rent Controller for ejectment, the Appellate Court was justified in affirming the finding that there were sufficient ingredients for directing ejectment.

2. Learned counsel appearing on behalf of the tenant says that the summon had not been taken to the correct address and *munadi* could not have been effected. There are pleas which could not be entertained in appeal on merits, for, there was no challenge to the manner in which the ex parte decree was passed. That plea could have been brought only before the very same Court through an appropriate application. If the tenant was restricting his right to prefer an appeal against the ex parte decree of ejectment, the ground could have been only that on the basis of evidence adduced before the Rent Controller, the Court could not have still passed an order of ejectment. I find nothing irregular in the exercise of the discretion by the Rent Controller or by the Appellate Authority who have taken note of the evidence given by the landlord and have proceeded to issue the necessary orders of ejectment. The ground urged by the counsel that the service was not properly effected is not a plea which is available to urge on the merits of the claim brought by the landlord.

3. I will find no scope for intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 07, 2015
Pankaj*