

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

CR No.3767 of 2015

Date of decision : May 28, 2015

Harish Kumar

..... Petitioner

Versus

Harbhajan Singh and others

..... Respondents

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. Sanjay Gupta, Advocate,
for the petitioner.

GURMIT RAM, J.

1. This revision petition is preferred by the petitioner-Harish Kumar, who was objector/JD No.1 before the learned Executing Court against the order dated 24.04.2015 (Annexure P-6) passed by the learned Civil Judge (Senior Division), S.B.S. Nagar vide which his objection petition filed in the said execution application was dismissed.

2. The facts in brief pertaining to the background of this revision are that respondent No.1 herein filed petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (in short "the Act") for the eviction of the tenant (petitioner-herein) from the demised premises/shop.

This petition was accepted by the learned Rent Controller vide order dated

20.07.2010 whereby directing the tenant to vacate the demised premises and to hand over its vacant possession to the petitioner (landlord). An execution application was filed on the basis of this ejectment order. During its pendency, the present petitioner filed the instant objection petition. After hearing the learned counsel for both the parties and going through the record as well, this objection petition was dismissed by learned Executing Court vide the impugned Order dated 24.04.2015.

3. Feeling aggrieved from this order, the petitioner has come up with the instant revision petition.

4. The facts in brief as mentioned in the said objection petition are that ejectment order dated 20.07.2010 has been obtained by concealing material facts from the Court below and also by playing fraud upon the Court and as such, the same is not tenable in the eyes of law. Then it was also pleaded that Harbhajan Singh son of Amar Singh was not the owner of the shop in question and that the owner of this shop is rather Harbhajan Singh son of Mohan Singh. Then it was also pleaded that neither decree-holder Harbhajan Singh nor the legal heirs of Amar Singh are the owners of the shop in dispute nor they are N.R.I. Then it was also pleaded that said Harbhajan Singh son of Amar Singh is having twelve shops in the area of Mukandpur Road, Banga out of which seven shops are vacant. Prayer was made to accept this objection petition and to dismiss the execution application.

5. Upon the perusal of record, it is found that the present petitioner has also filed a civil suit for declaration whereby challenging the validity of the abovesaid ejectment order dated 20.07.2010, a copy of which is available on the file as Annexure P-4. On asking, the learned counsel for

the petitioner has also admitted this fact. It is the settled law that no person can be permitted to avail his remedy by filing different petition/suit on the same very cause of action. In the case in hand as abovesaid, the present petitioner has filed the instant objection petition as well as a civil suit for declaration with regard to the validity of the ejectment order dated 20.07.2010, which is certainly an abuse of process of law. So on this short ground this revision petition is liable to be dismissed. It appears to be an attempt to avoid the process issued by Executing Court on the basis of ejectment order dated 20.07.2010. The copy of the reply filed before the learned Rent Controller is also not on record and same is found to be intentionally concealed by the present petitioner from this Court. Then it is also found mentioned in copy of execution application (Annexure P-1) that the impugned order dated 20.07.2010 has been confirmed by this Court vide order dated 20.07.2011.

7. In the light of the above discussion, this revision petition is held to be merit-less, consequently it stands dismissed and disposed of accordingly.

May 28, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**