

CR No. 4456 of 2013 (O&M)

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

CR No. 4456 of 2013 (O&M)

Date of Decision: October 01, 2015

Satnam Kaur

...Petitioner

Versus

Palwinder Singh Sodhi

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Amardeep Singh Gill, Advocate
for the petitioner.

Mr. Hitesh Kaplish, Advocate
for the respondent.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.15832-CII of 2013

Application is allowed, subject to all just exceptions.

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Challenge in this petition is to the order dated 11.04.2012 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Phagwara, vide which the objection petition preferred by the respondent-tenant-judgment debtor stands accepted, wherein, his assertion that there is an interim order protecting his dispossession, passed by the High Court in Civil Revision No.5579 of 2006 which has been preferred by him challenging the order of his eviction passed by the Rent Controller, Phagwara, whereby the application of the landlord under Section 13-B of the East Punjab

Urban Rent Restriction Act (for short 'the Act') was allowed being a Non Resident Indian, a specified tenant but his eviction was stayed qua the premises in question as the issue was pending before the Supreme Court with regard to the vires of the said provision. He contends that thereafter, the case was proceeded with on merits and an order of eviction has been passed by the Rent Controller, Phagwara, on 09.12.2010 which order has not been challenged by the respondent-tenant-judgment debtor and has attained finality, which has nothing to do with the earlier petition as regards the right of the landlord under Section 13-B of the Act is concerned. He contends that the order dated 11.04.2012 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Phagwara, therefore, cannot sustain.

Learned counsel for the respondent-tenant-judgment debtor has submitted that the premises in question is the same and since, an order has been passed by this Court staying his dispossession, the Executing Court has rightly upheld the objections which have been filed by the respondent-tenant-judgment debtor. He, thus, supports the impugned order dated 11.04.2012 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Phagwara.

I have considered the submissions made by the counsel for the parties and have gone through the impugned order but I am of the considered view that the order dated 11.04.2012 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Phagwara,

cannot be sustained.

The execution proceedings which have been taken out by the petitioner-landlord is for execution of the order dated 09.12.2010 which has been passed in a petition under Section 13 of the Act which is an independent proceeding although it may be relatable to the same premises. The earlier order which is under challenge in this Court in Civil Revision No.5579 of 2006 was one which was passed by the Rent Controller, under Section 13-B of the Act which is a statutory right conferred upon the Non Resident Indian treating him to be a statutory landlord which has no concern with the subsequent proceeding which has culminated in the order dated 09.12.2010 where the eviction has been ordered on the basis of non-payment of rent. The trial Court has confused the matter and has, therefore, not understood the real context in which the two provisions operate, may be under the same statute.

In view of the above, the order dated 11.04.2012 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Phagwara, is set aside and the objection petition filed by the respondent-tenant-judgment debtor stands dismissed.

The file of Civil Revision No.5579 of 2006 be de-attached and listed for hearing in the urgent list on 04.11.2015, with intimation to the counsel for the parties as the same is likely to be rendered infructuous in the light of the above order.

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October 01, 2015
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE