

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

**C.M. NOS.16210-16211 CII OF 2015 &
CIVIL REVISION NO.5952 OF 2014
DATE OF DECISION: NOVEMBER 18, 2015**

Shree Paul

.....Petitioner

VERSUS

S.D.P. Sabha (Regd.), Ludhiana and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Vishal Aggarwal, Advocate,
for the petitioner.

Mr. Yogesh Goel, Advocate,
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. Nos.16210-16211 CII of 2015

C.M. No.16210 CII of 2015 is allowed.

Exemption is granted from filing certified copy of Annexure R-

1.

C.M. No.16211 CII of 2015 is also allowed.

Short reply by way of an affidavit on behalf of the respondents
is taken on record.

Civil Revision No.5952 of 2014

Challenge in this revision petition is to the order dated
11.08.2014 passed by the Civil Judge (Junior Division), Ludhiana, whereby
the application filed by the petitioner-judgement debtor for setting-aside the
exparte proceedings initiated against him in the execution petition on
24.08.2009, stands dismissed.

It is the contention of learned counsel for the petitioner that the learned Civil Judge (Junior Division), Ludhiana, vide the impugned order has proceeded to reject the application filed by the respondents, treating it to be an objection against the execution and has over-looked the requirement of the statute. He contends that the assertion had been specifically made by the petitioner that he had not been served in the proceedings and, therefore, he should have been given an opportunity to make his submissions and to prove the same but without giving an opportunity for doing so, the Court has simply proceeded to dismiss the application. Counsel for the petitioner, on the basis of affidavit dated 18.09.2014 filed in this Court, asserted that the report on the summons (Annexure P-1), which states that he has been served through his son Ramesh, is in fact incorrect as he has neither any son by the said name nor any person by the said name resides with him. He contends that the report of the Process Server has been procured. He, thus, contends that the summons, Annexure P-1, which have been said to have been served upon him, have in fact been procured by the respondents and the impugned order, therefore, deserves to be set-aside.

Counsel for the respondents, on the other hand, contends that the application, which was filed for setting-aside the exparte proceedings, was only with an intention to delay the handing over of the possession of the property in dispute. He contends that the order of eviction was passed by the Rent Controller on 06.09.2007. The said order has not been challenged by the petitioner. The petitioner, who is a judgement debtor, is under huge arrears of rent amounting to ₹ 1,86,900/- as on 09.08.2007. He, thus, contends that the application is a ploy to delay the process of execution,

which has been initiated by the respondent-landlord.

I have considered the submissions made by counsel for the parties and with their assistance have gone through the impugned order.

The arguments, which have been raised by counsel for the petitioner, cannot be accepted as except for his bald assertion with regard to non-service of the summons on him, nothing has been pleaded in the application, giving details thereof. The stand taken was that a compromise was entered into between the petitioner and the respondents but no such writing or proof has been produced. Apart from that, it has not been mentioned as to whom the alleged rent was paid what to say of payment to the respondents or to the authorised representative.

That apart, the assertion of counsel for the petitioner that the summons have been served by the Process Server on 18.09.2009 upon one Sh.Ram Kumar, who asserted himself to be the son of the petitioner as per Annexure P-1, which aspect has been denied by the petitioner, has not been found mentioned in the application for setting-aside the exparte proceedings. Had it been so, the said assertion would have been positively incorporated in the application. This clearly shows that the petitioner has not approached this Court with clean hands.

In view of the above, finding no merit in the present revision petition, the same stands dismissed.

November 18, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE