

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

**CR No.6804 of 2014
Date of Decision : 1.7.2015**

Sub Lime Chit Fund Company

.....Petitioner

Versus

Gurmanik Singh Sarhadi and anr.

.....Respondents

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Vaibhav Narang, Advocate for the petitioner.

Mr. Veneet Sharma, Advocate for the respondents.

GURMIT RAM, J.

This revision petition has been filed at the instance of petitioner herein (tenant) against the order dated 8.1.2013 (Annexur P-2) passed by the learned Rent Controller, Amritsar vide which its defence was struck off.

2. The brief facts as mentioned in the instant revision petition are that the respondents herein (landlords) have filed a petition for ejectment under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short – *the Act*) against the petitioner herein (tenant). It is the case of the petitioner herein (tenant) that he remained in judicial custody w.e.f. 3rd May, 2012 to 4th October, 2013. During this period he was produced in the Court only on one date i.e. 6.8.2012 and as such he was not able to engage any lawyer to contest this case. He could not file his written statement and as such his defence was struck off vide the

impugned order (Annexure P2). Further he was also proceeded against ex-parte on 3.2.2014. He filed an application for setting aside the ex-parte proceedings which was accepted by the learned Rent Controller vide order dated 16.8.2014 and he was given permission to cross-examine the witnesses. A prayer is made to accept this revision petition and to grant the petitioner-tenant an opportunity to file written statement after setting aside the impugned order Annexure P-2.

3. Notice of the petition was given to the respondents.

4. I have heard the learned counsel for both the parties and perused the record as available on the file.

5. As above-said it is the case of the petitioner herein that he remained in judicial lock-up w.e.f. 3rd May, 2012 till 4th October, 2013 and as such he was unable to defend his case by engaging some lawyer. But in this regard he did not bring on record any documentary evidence in the shape of custody certificate issued by the Superintendent of concerned jail to show that he had been actually remained in jail during the above-said period. Then certified copies of the various zimny orders passed by the Court of learned Rent Controller in this case are available on the file which are dated 29.8.2012, 19.9.2012, 6.10.2012, 3.11.2012 and 4.12.2012. These orders show that he was duly represented in this case by his counsel. Then even in the impugned order Annexure P-2 itself presence of his counsel is marked. So his plea that he could not engage any counsel to defend his case being in custody is held to be not sustainable. Then certified copies of some more zimny orders of subsequent dates passed in this case by the learned Rent Controller are

also available on file which also show that the present petitioner has been duly represented by his counsel in this case to defend him. Then the copy of the ejectment petition is also available on the file which shows that as per the claim of the landlord, the present petitioner-tenant is in arrears of rent since 1.1.2005 till date.

6. In the light of the above discussion, this revision petition is held to be meritless and the same stands dismissed and disposed of accordingly.

Nothing observed herein will have any effect on the merits of main petition which is stated to be pending before the learned Rent Controller, Amritsar.

1.7.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes/No
2. Whether the judgment should be reported in the Digest? Yes/No