

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCN No.3499 of 2013

Date of Decision: November 04, 2016

Avinash Kumar Jain

.....Petitioner

Versus

Vinod Kumar Jain

....Respondent

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

Present: Mr. Brijender Kaushik, Advocate
for the petitioner.

Mr. Vaibhav Sehgal, Advocate
for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court with the assertion that in pursuance to the order of eviction dated 08.01.2008, passed by the Rent Controller, Ludhiana in the execution proceedings preferred by the petitioner, the respondents suffered a statement that he has handed over the vacant possession of the demised premises i.e. two rooms and one varandah on the first floor of the House No.347, Kucha Kaka Ram, Rehamtulla road, Ludhiana. In pursuance to the statement, the execution petition was disposed of on 07.08.2013 (Annexure P-2), as having been satisfied . It is alleged that in the garb of the said order, he has again taken possession of the ground floor because of which he has committed contempt and a complaint dated 07.12.2013 was filed by the petitioner against the respondent to the SHO, Police Station, Division No.3, Ludhiana (Annexure P-4).

Counsel for the respondent has referred to the order passed by

the Rent Controller, wherein in the heading whereof the details with regard

to the ejectment, sought from the respondent which is of two rooms, one varandah on the first floor of House No.347, Kucha Kaka Ram, Rehamtulla road, Ludhiana. Similar is the position with regard to the statement given by the respondent in the Executing Court which has been recorded on 07.08.2013 (Annexure P-2). He, thus, contends that the eviction was only to the extent of two rooms and one varandah on the first floor and there was no mention with regard to the ground floor which admittedly was in possession and is in possession and continues to be in possession of the respondent. He, thus, contends that no contempt is made out against the respondent.

Having considered the submissions made by counsel for the parties and keeping in view the ejectment petition which was preferred in conjunction with the statement of the respondent dated 07.08.2013 (Annexure P-2), it is apparent that the eviction was limited to the extent of two rooms and one varandah on the first floor of the house No.347. If that be so and the fact that the said premises has not been reoccupied by the respondent, no contempt as such is made out against the respondent and the petition, therefore, stands dismissed.

Rule issued to the respondent stands discharged.

(AUGUSTINE GEORGE MASHI)
JUDGE

November 04, 2016

ps-I

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No