

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

**C.R No.1604 of 2016 (O&M)
Date of Decision : 01.03.2016**

Girdhari Lal

..... Petitioner

Versus

Gurdit Singh (deceased) through his LR's and others

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. G.S. Sirphikhi, Advocate
for the petitioner.

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

AJAY TEWARI, J. (Oral)

By this revision petition the petitioner has challenged the order of the Executing Court dated 25.01.2016 dismissing the objections filed by the petitioner-tenant.

Brief facts of the case are that the respondents No.1 to 6 filed a petition for eviction of the petitioner from the shop in dispute on various grounds. One of the grounds was that originally the shop in dispute had a verandah, height of the roof of the shop was 8 feet, the roof of the shop was made of wooden rafters and there was a temporary roof of bamboos on the verandah portion. However the petitioner-tenant broke the roofs of the shop and the verandah and consolidated both of them into one unit, raised the

height of roof to 13 feet and put a pucca roof with a shutter. To prove the effect of this material impairment of value, the respondents No.1 to 6 placed on record two site plans to illustrate the differences. It may be mentioned here that otherwise there was no dispute about the identity of the shop which was in the possession of the petitioner. The Rent Controller passed the eviction order and gave the relief in the following terms:-

“In view of the findings recorded on the above issues, this application succeeds and ejectment order is passed in favour of the applicants and against the respondents for ejectment of the latter from shop with verandah bearing Unit No.B-IV-II-101 bounded on North; shop with verandah rented out to Kundan Lal by the applicants, South: Rasta, East: Road Dera Baba Nanak, Batala, West: Ahata of M/s Dhanpat Rai Gopal Dass, situated at Dera Baba Nanak Road, opposite Civil Courts Complex, Batala, shown as pink and worded as A B C D E F in the plans (Plan Annexure-A showing the previous condition of the shop and plan Annexure-B showing the existing condition of the shop) under Section 13 of the East Punjab Urban Rent Restriction Act. The lawyers' fee is assessed as Rs.200/-. The respondents are granted a period of two months to deliver vacant and peaceful possession of the demised premises to the applicants. Memo of the costs be prepared and file be consigned to the record room.”

It is clear that for the purpose of identification of the premises in dispute it would have been enough to mention the address i.e. Unit No.B-IV-II-101, bounded as North shop with verandah, opposite Civil Court Complex, Batala and the further addition of the particulars of the plans was only by way of abundant caution, since as mentioned above the identity of

the premises in dispute was not disputed by the petitioner. Ultimately the respondents No.1 to 6 filed an execution application in respect of the premises in dispute. In my opinion, in that execution application it would have been enough to give the detailed address of the shop which has been extracted above but again by way of abundant caution, the landlords annexed the site plans. The petitioner-tenant filed the objections to the effect that the site plans which had been placed by the said respondents was unproven documents and therefore the execution could not be carried out. This objection having been rejected he is before this Court.

Learned counsel has argued that the reason given by the Executing Court for dismissing the application is incorrect and it was incumbent upon the respondents No.1 to 6-landlord to have proved the site plans. As per the learned counsel, the execution could not proceed without the site plans.

In my opinion, these arguments are fallacious. The site plans had been appended with the original application only for the purpose of showing the material impairment and the identity of the premises in dispute was not and is not in dispute and the premises can well be identified by the particulars which have been mentioned above. In the circumstances, the mere fact that the Rent Controller had given the details of the two plans in the relief clause could not give rise to the conclusion that in the absence of the exact site plan the execution could not proceed. Had it been a case where the site plan has been placed for identification of the premises it may have been a different thing but that not being the case here the present

revision petition cannot be allowed.

Consequently, the revision petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 01, 2016

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**(AJAY TEWARI)
JUDGE**