

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

C.R. No.2484 of 2016 (O&M)

Date of Decision.28.09.2016

Mata Phullan Rani

.....Petitioner

Vs.

Deepak Sharma

.....Respondent

Present: Mr. Anil Chawla, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The petitioner-decree holder is aggrieved of the impugned order whereby the execution application seeking possession of the property described in the site plan (Annexure P-2) at page 49 of the paper book, has been dismissed.

Mr. Anil Chawla, learned counsel appearing for the petitioner submits that in petition filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter called the 1949 Act), the ex parte ejectment order dated 27.10.2009 in respect of the suit property described in site plan Ex.A-10 (Annexure P-7 in the present revision petition) as measuring 4'x4', had been ordered. Thereafter many objections filed but they were ultimately dismissed. The respondent-tenant had changed the nature of the property and in this backdrop of the matter, the application for taking the possession as per the site plan has been filed and the Rent Controller has erroneously dismissed the same.

I have heard learned counsel for the petitioner and appraised the paper book. In the site plan attached with ejection petition of the year 2007 (Annexure P7) and in the site plan attached with the present case (Annexure P2) as indicated above, the dimensions are totally different. He has suffered a statement with regard to taking possession of some portion of the property and even argued before the Executing Court that the decree holder has got possession of more area than the area regarding which execution has been filed. If at all, he is aggrieved of certain portion in respect of which the respondent-tenant has changed the nature, the Court cannot go behind the decree and the remedy, if any, for him was/is to file an independent suit.

For the foregoing reasons, the order under challenged passed by the Court below is perfectly legal and justified and cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

September 28, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No