

In the High Court of Punjab and Haryana at Chandigarh

**CM No. 2284-CII of 2015 in/and
RA-CR-17-CII of 2015 in
CR No. 3937 of 2013
Date of Decision:26.3.2019**

Hemant Kumar Khullar

---Review-Petitioner

vs.

Harjot Singh Grewal

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ashok Sharma Nabhewala, Advocate
for the review-petitioner

Mr. Deepak Thapar, Advocate
for the respondent

Rekha Mittal, J.

CM No. 2284-CII of 2015

Prayer in this application is for condoning delay of 307 days in filing the application for review.

In view of averments made in the application and arguments advanced by counsel for the applicant, application is allowed and delay of 307 days in filing the application for review stands condoned.

Disposed of accordingly.

RA-CR-17-CII of 2015

Prayer in the petition filed under Order 47 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure (in short “the

Code”) is for reviewing order dated 21.1.2014 passed in Civil Revision No. 3937 of 2013.

Counsel for the review-petitioner would argue that this court disposed of Civil Revision No. 3937 of 2013 in view of order dated 26.8.2013 passed in execution proceedings for execution of eviction order wherein it was recorded that counsel for the petitioner (judgment debtor therein) recorded a statement that keys with possession of the demised premises has been handed over to the decree holder that day in the court on the basis whereof, the decree-holder/respondent withdrew the execution petition being fully satisfied. It is argued with vehemence that since the petitioner never engaged the counsel who purportedly made statement on behalf of the judgment-debtor therein, order passed by the Executing Court cannot be allowed to sustain and as a consequence, order dated 21.1.2014 passed by this Court disposing of the revision petition is liable to be set aside and Civil Revision No. 3937 of 2013 may be restored on the Board of this Court and thereafter decided on merits. It is further argued that petitioner filed Special Leave to Appeal (Civil) No. 20476 of 2014 to challenge order dated 21.1.2014 passed by this Court and the same was allowed to be withdrawn but with liberty to the petitioner to approach the appropriate court for the relief.

Counsel representing the respondent, on the contrary, has supported the order passed by the Executing Court while disposing of execution proceedings as fully satisfied as well as the order dated 21.1.2014 passed by this Court by taking into consideration order dated 26.8.2013 passed in execution proceedings.

I have heard counsel for the parties, perused the paper book of Civil Revision No. 3937 of 2013.

This Court disposed of the aforesaid rent revision by taking into consideration order dated 26.8.2013 passed in execution proceedings. At the time when the revision petition was disposed of by this court on 21.1.2014, the present petitioner was represented by a counsel and the order was passed in his presence.

The primary grievance of the petitioner is that order passed by the Executing Court on 26.8.2013 is illegal and invalid as the counsel who appeared on behalf of the petitioner (JD/respondent therein) did not have an authority to suffer any such statement before the executing court, therefore, order dated 26.8.2013 cannot form the basis for disposal of rent petition by this Court.

Before advertng to the submissions made by counsel for the parties, it is appropriate to take note of order passed by Hon'ble the Supreme Court whereby liberty was granted to the petitioner to approach the appropriate court for the relief, reads thus:-

“Learned counsel for the petitioner seeks permission to withdraw the petition. Permission granted.

Hence, the petition is dismissed as withdrawn with liberty to the petitioner to approach the appropriate court for the relief. It there is any delay, the same shall be condoned up to the period during which the matter was pending before this court and the matter shall be examined on merits by the appropriate court after condoning the delay.”

On due consideration of the submissions made by counsel for the petitioner, it is evident that the sole grievance of the petitioner is against the order passed by the Executing Court on the basis whereof the execution proceedings were disposed of being fully satisfied. As the petitioner has sought to contend that counsel who represented him in the execution proceedings suffered a statement without any authority/competence, the said issue can be decided only by the Executing Court concerned more so that order dated 26.8.2013 passed by the Executing Court is not subject matter of challenge in Civil Revision No. 3937 of 2013. The petitioner, in place of approaching the Executing Court, a competent fora for grant of appropriate relief, has filed the review petition. In this view of the matter, I find myself unable to accept contention of the petitioner that order passed by this Court in Civil Revision No. 3937 of 2013 needs review, in the given circumstances.

For the foregoing reasons, the petition stands disposed of. However, the petitioner may approach the executing court for appropriate relief. In case the petitioner files an application before the Executing Court, the same shall be decided by the said court within a period of six months from the date of its filing, in accordance with law.

(Rekha Mittal)
Judge

26.3.2019

paramjit

Whether speaking/reasoned: Yes

Whether reportable : Yes/No