

CR No. 4150 of 2016 (O&M)

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

CR No. 4150 of 2016 (O&M)

Date of Decision: August 17, 2016

Anil Gulati

...Petitioner

Versus

Manohar Lal Kathuria

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjeev Sharma, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this revision petition is to the order dated 21.05.2016 (Annexure P-7) passed by the Executing Court rejecting the objections as raised by the petitioner with regard to the ownership of the disputed shop.

It is the contention of the counsel for the petitioner that the petitioner has now come to know that the respondent who asserts himself to be the landlord is not the owner of the shop and thus, could not be the landlord. He further states that no Power of Attorney, specific or general, has been produced by the respondent showing himself to be authorized to collect the rent or to proceed for filing the eviction petition. He, thus, contends that the Executing Court should have taken the said facts into consideration and permitted the petitioner to pursue further with the

objections. The dismissal of the objections, thus, of the petitioner by the Executing Court vide impugned order dated 21.05.2016, cannot sustain.

I have considered the submissions made by the counsel for the petitioner and with his assistance have gone through the impugned order.

It is not in dispute that the eviction petition was filed by the respondent as a landlord. The appeal preferred by the petitioner against the order passed by the Rent Controller ordering his eviction was upheld by the Appellate Authority as also in the revision petition which was preferred by him in this Court. All pleas which were available to the petitioner having been duly dealt with, the revision petition having been dismissed which order has attained finality, the objection which has now been raised by the petitioner, has rightly been rejected by the Executing Court by holding that the ownership of the shop in dispute has no relevance for the purpose of execution proceedings especially when there are concurrent findings of three Courts to the effect that the respondent is the landlord of the demised premises.

As regards the rent proceedings are concerned, the material fact is the relationship of landlord and tenant which stands established and therefore, at this stage, the plea which is being sought to be taken by the petitioner cannot be accepted. The order dated 21.05.2016 which has been impugned in the present revision petition, as passed by the Rent Controller, Faridabad, in the execution proceedings, rejecting the objection of the petitioner, cannot be said to be either illegal or not based upon proper appreciation of the pleadings and the facts on record.

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Finding no merit in the present revision petition, the same stands dismissed.

CM No.12936-CII of 2016

In view of the order passed in the main revision petitioner, no order is required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

August 17, 2016
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No