

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

**CR No.4515 of 2012 (O&M)
Date of decision:27.04.2016**

Mohinder Singh (deceased) through LR ... Petitioner

Vs.

Surinder Nath and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Rajesh K. Dadwal, Advocate
for the petitioner.

Mr. R.S.Chauhan, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

The petitioner-tenant is aggrieved of the impugned order dated 29.02.2012 (Annexure P-7), whereby, an application filed under Section 151 of the Code of Civil Procedure, for recalling of the warrants of possession issued for 19.11.2011 on the ground that Nagar Panchayat of village Talwara has come into operation and therefore, the applicability of the East Punjab Urban Rent Restriction Act, 1949 (in short "1949 Act") as then applicable had become inoperative and therefore, judgment and decree passed had become un-executable, has been dismissed.

Mr. Rajesh K. Dadwal, learned counsel appearing on behalf of the petitioner submits that the Court can always take into

consideration the subsequent events which have been enacted by promulgation of law. The notification dated 27.10.2010 was promulgated, whereby, Nagar Panchayat, Talwara was set up and therefore, the ejectment judgment and decree dated 30.08.2000 (amended on 20.03.2008), had become un-executable.

In support of his aforementioned contentions, he relies upon the judgments of this Court rendered in **Ram Narain and others vs. Ram Lal and others 2003 (2) RCR (Rent) 660** and in **CR No.474 of 2002 titled as Neel Kant vs. Mahavir Singh**. He further submits that the appeal against the ejectment judgment and decree was filed which was dismissed in default. However, the said ejectment decree was corrected on 20.03.2008. Owing to the promulgation of notification aforementioned, decree had become un-executable and also moved an application for restoration of the appeal which was dismissed in default on 19.12.2013.

Mr. R.S.Chauhan, learned counsel appearing on behalf of the respondents submits that after passing of the ejectment judgment and decree dated 30.08.2000, an execution application was filed immediately thereafter, owing to filing of the appeal which was consigned. Accordingly, execution application was filed on 15.10.2005 and warrants of possession were issued for 05.11.2005. Even police help was provided on 29.07.2006. The petitioner-tenant filed the objections which were dismissed. However, the ejectment decree mentioned khasra No.4000 instead of mentioning khasra No.400 and the application for correction was moved which was

corrected in the year 2008. Accordingly, the execution application was filed and warrants of possession were issued. He further submits that act and conduct of the petitioner has delayed the execution of the ejectment decree. Moreover, the judgments cited on behalf of the petitioner apply to the case when the revision and appeal are pending but not at the execution stage. Rights of the parties have been crystalized on the date when the suit was filed in this case on 15.10.1992 and at that time, the provision of 1949 Act, was in vogue and thus, urges this Court for affirming the findings.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the contentions of Mr. Rajesh K. Dadwal, for, the aforementioned facts would reveal that execution had been delayed for one reason or the other. There was an apparent error on record which has been corrected in the year 2008 but the fact remains that notification came only in the year 2010 and by that time, decree was corrected and there was no promulgation of the notification for taking out the area from the purview/applicability of 1949 Act. All the judgments dealt with the situation where the Court can always take into consideration the subsequent events at the time of hearing of the appeal which is in continuation of the suit. Rights of the parties have already been prescribed, vide ejectment judgment and decree dated 30.08.2000 which had attained finality after dismissing in default of the appeal, and restoration application thereof on 19.12.2013.

In view of the aforementioned facts and circumstances,

I am of the view that ratio decidendi culled out in the aforementioned judgments cited by Mr. Dadwal, would not apply to the facts and circumstances of the present case and no ground is made out for interference.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

April 27, 2016
savita