

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

CIVIL REVISION NO.7412 OF 2016

DATE OF DECISION: NOVEMBER 07, 2016

Ravinder Singh

.....Petitioner

VERSUS

Rajesh Gupta and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This revision petition has been preferred by one Ravinder Singh son of Mohinder Singh, who asserts that without he being impleaded as a party to the eviction petition, Rajesh Gupta, respondent No.1-landlord, filed a petition for eviction against Roshan Lal Walia and Jaspal Singh, alleging that Roshan Lal Walia was his tenant and Jaspal Singh has been inducted by Roshan Lal Walia, which amounts to subletting of the demised premises whereas the petitioner is in possession of some portion of the demised premises and, therefore, he has not been given an opportunity of defending himself against the order of eviction, especially when an ex parte eviction order has been passed by the Rent Controller, Jalandhar. That apart, he asserts that the Rent Controller, where the eviction petition was filed, had

dismissed the objections, which have been filed by the petitioner without advertent to the provisions of Rules 97 to 103 of Order XXI of the Code of Civil Procedure, which required the framing of issues and deciding the question with regard to the assertion about the petitioner being in possession of a part of portion of the demised premises. He, thus, contends that the impugned order dated 21.08.2014 passed by the Rent Controller/Civil Judge (Junior Division), Jalandhar, rejecting the objections filed by the petitioner and the order passed by the Additional District Judge, Jalandhar, dated 23.08.2016, dismissing the appeal of the petitioner, cannot sustain and deserves to be set-aside.

I have considered the submissions made by learned counsel for the petitioner and have gone through the impugned orders as also the pleadings placed on record but do not find himself in agreement with the contentions as raised by him.

As per the pleadings and evidence, which have come on record, petitioner, Ravinder Singh is brother of Jaspal Singh-judgement debtor. It has been asserted that he alongwith Jaspal Singh was in possession of the demised premises in parts and were holding the premises as tenants. If that be so, it is difficult to believe and accept that the petitioner did not know about the filing of eviction petition against his brother, Jaspal Singh, despite he being duly served in accordance with law. It may be added here that after the passing of an exparte order dated 12.05.2012 by the Rent Controller, Jalandhar, allowing the petition of respondent No.1-landlord, application for setting-aside the said order was filed by Jaspal Singh, brother of the petitioner and Roshan Lal Walia, who were impleaded as respondent Nos.1 and 2 respectively in the ejectment petition. The said

application was dismissed by the Rent Controller, which has not been challenged either by Roshan Lal Walia or Jaspal Singh. The said orders have, thus, attained finality.

Further in the light of the fact that no prima-facie evidence has been placed on record in proof of assertion that the petitioner was a tenant of respondent No.1, especially when it has not even been stated that there was a rent deed in his favour. Similarly, no convincing evidence has been brought on record to the effect that he was in possession of the demised premises except for a bill, which in itself would not prove that he was in possession of the demised premises. The site plan, which has been produced by the respondent-landlords alongwith the eviction petition although was disputed by the petitioner but nothing has been placed on record, which would show that the site plan as attached by respondent No.1-decree holder is false or wrong.

The orders, as passed by the Courts below, are fully justified and in the facts and circumstances of the present case, there was no need to advert to the provisions contained in Order XXI especially Rule 101 C.P.C., on which emphasis has been laid by counsel for the petitioner. It is the requirement of the statute that resort to Order XXI Rules 97 to 103 of the C.P.C will be made when a prima-facie triable issue arises on the basis of pleadings in execution proceedings.

A perusal of the file and the records would lead to only one conclusion that it is an effort on the part of the petitioner to save eviction of his brother, Jaspal Singh, from the demised premises by asserting himself to be a tenant and that he has not been impleaded as a party.

There is no illegality in the orders, which have been impugned

herein, which would call for interference by this Court in exercise of its revisional jurisdiction.

The revision petition, therefore, stands dismissed.

**November 07, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

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