

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

**C.M. NOS.24733-34 CII OF 2016 &
CIVIL REVISION NO.8209 OF 2016
DATE OF DECISION: DECEMBER 20, 2016**

Yash Pal Jain

.....Petitioner

VERSUS

Ramesh Kumar

....Respondent

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

Present: Ms. Ekta Thakur, Advocate,
for the petitioner.

Mr. Gaurav Gogna, Advocate,
for the Caveator-respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.24734 CII of 2016

Application is allowed as prayed for subject to all just exceptions.

C.M. No.24733 CII of 2016 & Civil Revision No.8209 of 2016

Challenge in this revision petition is to the order dated 31.05.2011 passed by the Rent Controller, Ludhiana, whereby an exparte order of eviction has been passed on the ground that the petitioner has failed to tender the provisional rent as assessed within the time stipulated by the Court, appeal against which preferred by the petitioner has been dismissed by the Appellate Authority on 04.11.2016.

It is the contention of learned counsel for the petitioner that the petitioner was never served in the eviction petition and what appears to have

happened is that Sh.J.B.Khanna, Advocate, had been appearing for the petitioner in other cases, which were going on between the same parties and inadvertently the appearance of the counsel would have been mentioned. As a matter of fact, he was neither engaged nor instructed to file any written statement nor was any power of attorney given in his favour. That apart, she contends that the written statement, which has been placed on record, does not bear the signatures of the petitioner. Even the zimni orders, as passed by the Rent Controller, Ludhiana, do not indicate that the petitioner had ever been served in the eviction petition.

Notice of motion.

Mr.Gaurav Gogna, Advocate, for the caveator-respondent, accepts notice on behalf of the respondent. Caveat stands discharged.

On the contentions having been raised by counsel for the petitioner, the records of the Court below were summoned. The records have been received and perused by this Court with the assistance of counsel for the parties and from the same, the contention as raised by counsel for the petitioner is found to be correct.

In view of the above, the impugned orders dated 31.05.2011 and 04.11.2016 passed by the Rent Controller, Ludhiana as also Appellate Authority, Ludhiana respectively are hereby set-aside. The parties are directed to appear before the Rent Controller, Ludhiana, on 10.01.2017 and the petitioner herein shall file reply to the eviction petition within a period of one week from the date of appearance before the Rent Controller, Ludhiana. Thereafter, the authority shall proceed with the matter in accordance with law.

The petition stands disposed of in the above terms.

Since the main revision stands disposed of, no orders are required to be passed on C.M. No.24733 CII of 2016 for staying the operation of the impugned orders.

**December 20, 2016
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**(AUGUSTINE GEORGE MASIH)
JUDGE**

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