

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

**COCP No. 2556 of 2016**

**Date of decision : 27.04.2017**

Sunita Rani

....Petitioner

V/s

Megh Raj & anr.

....Respondents

**BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Satbir Rathore, Advocate for the petitioner.

Mr. V. Ramswaroop, Addl. A.G. Punjab.

Mr. Sunil Agnihotri, Advocate for respondent no. 2.

**RAJAN GUPTA J.**

Petitioner has preferred the present contempt petition alleging willful disobedience of orders dated 19.01.2012 and 24.01.2012 passed by this court.

Brief factual background of the case is that petitioner filed an ejectment petition against respondent under section 13 of the East Punjab Urban Rent Restriction Act, 1949 on the ground of bona fide requirement. This petition was allowed by the Rent Controller vide order dated 04.09.2006. It was directed that respondent would handover the vacant possession of the demised premises to the petitioner within a period of sixty days from the date of the order. Appeal preferred by the tenant against the order of the Rent Controller was dismissed on 13.09.2008. Thereafter, petitioner filed execution petition before the Rent Controller. He directed that possession be handed-over by breaking open the locks of the shop. As orders could not be executed, District and Sessions Judge requested the

Senior Superintendent of Police, Hoshiarpur to provide police help. However, no tangible results were achieved. As a result COCP No. 2686 of 2011 was preferred by the petitioner. After notice of motion was issued, reply by way of affidavit of Senior Superintendent of Police, Hoshiarpur was filed wherein it was stated that possession of the demised premises had been handed-over to the petitioner. Petition was, thus disposed of after taking on record said affidavit. However, liberty was granted to the Rent Controller to take coercive measures including attachment of property of respondent no. 1 to recover arrears of rent alongwith interest. Executing court was directed to complete the proceedings within three months. Petitioner thereafter started using the premises for her own use. It has been alleged that in the month of August, 2016, husband of the petitioner expired. Thereafter, she had gone to Rajasthan after locking the premises. On 28.08.2016, respondent broke open the locks of shop of the petitioner and took possession thereof. Petitioner thereafter moved application to the Senior Superintendent of Police, Hoshiarpur but no action was taken. She again invoked the contempt jurisdiction of this court. During pendency of the petition, amended memo of parties was filed where it was alleged that respondent Megh Raj alongwith his son had taken possession of the shop. Megh Raj, however, expired during the proceedings. On February 09, 2017 when the case was taken up, short reply by way of affidavit of Rajinder Kumar, Deputy Superintendent of Police, Sub Division Dasuya, District Hoshiarpur was filed. It was stated therein that petitioner complained to the police that respondent Ashwani Kumar had taken illegal possession of the shop in question. As the police found substance in the allegation, it registered FIR No. 11 dated 07.02.2017 under sections 447 & 379 IPC. Matter is stated to be under investigation. Question, however, arises whether petitioner is also

guilty of contempt of this court. Section 2B of the Act reads as under:-

*“civil contempt” means willful disobedience to any judgment, decree, direction, order, writ or other process of a court of willful breach of an undertaking given to a court;”*

Reading of aforesaid section shows that in case disobedience is willful in nature, same is punishable being civil contempt. Punishment has been provided in section 12 of the Act. In the instant case, the earlier petition preferred by petitioner was disposed of in view of affidavit filed by Senior Superintendent of Police, Hoshiarpur that possession of the demised premises had been handed-over to the petitioner. There can, thus be no doubt that possession was with the petitioner. As per allegation in the petition, petitioner who is 75 years old lady has again been dispossessed of the premises after her husband expired. Affidavit filed by Rajender Kumar, DSP, Dasuya shows that police has registered a FIR against Ashwani Kumar for taking illegal possession of the shop in question. In my considered view, respondent Ashwani Kumar has committed gross contempt of this court as he has willfully and deliberately disobeyed the order passed in COCP No. 2686 of 2011. Said petition was disposed of after possession was handed-over to the petitioner on intervention of this court. In view of same, possession had to continue with the petitioner. After four years of the disposal of the petition, respondent Ashwani Kumar who is son of Megh Raj who was a respondent in the earlier petition, has again taken the possession of the shop. An FIR has been registered regarding the incident. Needless to say that investigation would continue in the said case. However, in view of findings of this court that respondent is guilty of willful disobedience of the orders passed by this court, it holds him guilty for offence under section 12 of the Act.

Keeping in view conduct of the contemnor, he deserves no leniency. Apart from dispossession a 75 years old widow from her premises, he has willfully disobeyed the order dated 24.01.2012 whereby possession was handed-over to the petitioner and executing court was directed to take coercive measures to recover arrears of rent from him. He is, thus sentenced to simple imprisonment for three months and fine of ₹1,000/-.

In peculiar facts and circumstances of the case, Senior Superintendent of Police, Hoshiarpur is directed to take immediate measures to restore the possession of the premises to the petitioner. A report in this regard be submitted within one month from today.

Petition is allowed in these terms.

April 27, 2017

*Ajay*

(RAJAN GUPTA)  
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No