

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

C.R. No. 2872 of 2017
Date of decision: 26.04.2017

Ganesh Parsad Yadav

....Petitioner(s)

Versus

Lokesh Madan

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Neeraj Sheoran, Advocate,
for the petitioner.

Mr. Pavan Malik, Advocate,
for the caveator/respondent.

G.S.SANDHAWALIA, J. (Oral)

The eviction was ordered by the Rent Controller, Gurugram on 04.01.2012 ex parte against the petitioner on the ground of non-payment of rent from 01.07.2008. The petitioner had put in appearance and after framing of issues, he did not turn up and was proceeded against ex parte vide order dated 14.12.2010. He chose not to join the proceedings till the eviction order was passed and thereafter filed an application under Order 9 Rule 13 CPC alongwith an application for condonation of delay for setting aside the ex parte order.

The Rent Controller dismissed the application on 05.11.2014 (Annexure P-1) on the ground that he was aware of the proceedings and, therefore, the blame as such sought to be put on the Advocate was not justified. Even the application being barred by limitation and no sufficient cause having been made out, the same has also been dismissed.

His appeal has also now been dismissed by the District Judge,

Gurugram vide order dated 01.04.2017 wherein, it was held that there was culpable delay on the part of the appellant due to his own inaction, negligence and carelessness due to which no ground was made out for setting aside the order of the Rent Controller.

Counsel for the caveator is also present and informs that possession of the premises in question has already been taken.

The above facts and circumstances would go on to show that there was no sufficient cause made out for non-appearance as such to set aside the ex parte proceedings which would be basic core issue which was before the Courts below. Once the petitioner was well aware of the proceedings and filed his written statement, he cannot turn around and say that he was not informed by his counsel. It was his bounden duty to keep in touch with the counsel and appear in Court to find out the latest proceedings. The effort is to retain premises without payment of rent, which is not permissible as provisional rent would have been payable. The arrears are upto ₹4,00,000/- by now which, the counsel does not have any instructions whether the petitioner is willing to deposit the same so that any indulgence can be granted.

Accordingly, the present revision petition is dismissed.

26.04.2017
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No