

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

CR No.5393 of 2017(O&M)

Date of Decision:-16.08.2017

Baljit Singh.

.....Petitioner.

Versus

Kewal Krishan.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Dheeraj Mahajan, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner (tenant) is in revision aggrieved against the orders dated 16.5.2017 (P-5) passed learned Civil Judge (Jr. Divn.), Amritsar and order dated 01.08.2017 (P-7) passed by the learned Additional District Judge, Amritsar whereby, the application filed by petitioner Under Order 9 Rule 13 CPC for setting aside the ex-parte order of ejectment dated 03.04.2013 has been dismissed.

Learned Counsel for the petitioner has argued that the Authorities below have wrongly dismissed the application filed by petitioner (tenant) under Order 9 Rule 13 CPC by completely ignoring the evidence led by him which proved that petitioner was suffering from spine problem and, therefore, the Counsel for the petitioner in the trial Court had assured him that his presence is marked. However, the said Counsel had

failed to pursue the case and due to his non appearance, an ex-parte eviction

order was passed.

After hearing learned Counsel for the petitioner and perusing the paper book this Court is of the considered view that the petition is devoid of any merit and deserves to be dismissed.

It is evident from the record that the petitioner (tenant) had appeared in the main rent application on 22.11.2011 and on 05.03.2012 filed his reply as well. Thereafter on 07.09.2012 when the case was fixed for rejoinder, the petitioner was proceeded ex-parte due to his non appearance. Admittedly, the case remained pending for the next seven months and the ex-parte eviction order was passed on 03.04.2013. This fact itself shows that the petitioner (tenant) was not vigilant in pursuing his case and infact it is settled position of law that litigant has to be aware about his case and pursue the same diligently. There is nothing on record to show that the petitioner tenant) was prevented from even contacting his counsel telephonically and pursue his case. The averment of spine illness is only a lame excuse, to avoid a validly passed eviction order.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

August 16, 2017
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>