

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

C.M. No. 11970-CII of 2017 in/and
R.A. No. 87-CII of 2017 in
C.R. No. 3206 of 2012
Date of decision: 17.07.2017

Tarsem Singh

....Petitioner(s)

Versus

Mohan Lal (deceased) through L.Rs. and others

...Respondent(s)

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

Present: Mr. H.K. Aurora, Advocate,
for the applicant-respondent.

G.S.SANDHAWALIA, J. (Oral)

The present application has been filed by the tenant-respondent for review of the order dated 15.03.2017 alongwith an application for condonation of delay of 27 days in filing the review application. Vide the said order, this Court had reversed the findings on issue nos. 3 and 4 and held that the second petition was maintainable on the ground of bona fide requirement since provisions of Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the 1949 Act') provided that eviction could be sought of the tenants from the building and in view of the settled principle of law that multiple applications would lie regarding tenants in possession of one building of a particular category.

The review is sought on the ground that the petitioner-landlord had received a sum of ₹57,00,000/- from Harbans Singh and in pursuance to an agreement to sell the property in question and, thus, reference was made

to eviction order dated 10.01.2011 (Annexure P-3). It is accordingly contended that once the landlord as such had sold the premises to the said tenant Harbans Singh, who was the original owner initially, therefore, the bona fide as such were to be doubted and eviction which has been now ordered vide the order under review, is not justified. A perusal of the Annexures which have now been appended would go on to show that the ejectment order was conditional and the statements of the parties had been recorded that the amount of ₹20,00,000/- had been paid whereas the balance was to be paid on 31.03.2011 and ₹17,00,000/- on 16.05.2011 and the sale deed was to be executed in favour of Harbans Singh on 16.05.2011. It is apparent that Tarsem Singh thereafter filed an eviction application on the ground that the payment had not been made. The same was dismissed on 21.11.2013. He filed an appeal before the Appellate Authority which has now been dismissed on 11.04.2016. In the appeal, the Appellate Authority has noticed that nothing has come on the file that the remaining amount of ₹37,00,000/- had been paid by Harbans Singh. It was accordingly held that the order of eviction would, thus, remain in force and the landlord-Tarsem Singh could file an execution application for seeking possession of the property in dispute. It was also recorded that since no sale deed had been executed as per the order dated 10.01.2011, the remedy was to file an execution application and not to file a petition under Section 13 of the 1949 Act and a second petition would not lie. The remedy for Harbans Singh, the tenant therein, was to file a suit for specific performance but he could not dispute the relationship between the parties.

It is, thus, apparent that the petitioner-landlord had been

relegated to the remedy of executing the earlier eviction order and a finding has been recorded by the Appellate Authority that the balance amount has not been paid. Therefore, the application itself made for reviewing the order on the ground that Harbans Singh had made entire payment is against the record.

Accordingly, no ground for review and for condoning the delay is made out and the present applications are dismissed with costs of ₹25,000/-.

17.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No