

COC-218-2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

COC-218-2015

Date of Decision: 20<sup>th</sup> September, 2018

Shobha Rastogi & another

...Petitioners

Versus

Lalita Rani

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Narender Pal Bhardwaj, Advocate,  
for the petitioners.

Mr. Mukul Aggarwal, Advocate  
for the respondent.

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AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this Court alleging violation of the order dated 19.12.2013 passed by this Court in Civil Revision No.7280 of 2013, titled as 'Shobha Rastogi & another Vs. Lalita Rani Singla' (Annexure P-9). The operative part of the said order reads as follows:-

“After hearing learned counsel for the parties, it is deemed appropriate to dispose of the present revision by directing the learned Executing Court to ensure the due execution of the warrants of possession qua the first and second floor of the demised premises, if need be, by breaking open the locks of the ground floor.

Disposed of with the aforesaid terms.”

As per the order passed by this Court, the Executing Court passed an order dated 02.01.2016, operative part whereof reads as follows:-

“6. Hence, it appears to me that DHs instead of enjoying the status of vacant possession of the demised premises are levelling false allegations against the JD as well as her husband with regard to putting obstacles on their way of using vacant possession of the demised premises, whereas, they have failed to prove the same on record by any cogent evidence.

7. Hence, having relied upon the report of the bailiff as well as the statement of JDs husband dated 09.11.2015, this application seems to have become infructuous because vacant possession of first and second floors in question has already been delivered by the JD to the DHs on the spot, in furtherance to execution of warrants of possession issued by the Court through Bailiff.

8. JD has no intention to put any obstacles on the way of DHs. Even JD has no objection if DHs install a gate on stair-case which lead from ground floor to first and second floors and they have already removed their articles there from, though, stair-case and entrance through ground floor were not the issues before the then Rent Controller, who passed ejectment order against the JD.

9. However, our Hon'ble High Court had clarified this issue in the revision petition filed by the DHs to the effect that lock of the ground floor may be broken, if need be, for going to first and second floor. Even otherwise also, the DHs would have no easy access to the first floor and second floor until and unless the stair-case are used for the same and those stair-case may be used after putting entrance through ground floor. But ground floor is under the tenancy of the JD who is a lady. Therefore, justice requires to given prior notice to her

before using the stair-case and ground floor by DHs for going to first floor and second floor.

10. Accordingly, I direct DHs to give atleast four hours prior notice to JD before using ground floor and stair-case. In case JD avoids the service of notice or install locks on the ground floor, in that eventuality, the locks of the grounds floor or the stair-case may be broken in the presence of Area SHO, who is directed to extend his assistance to the DHs in that situation if request is made to him/her to that effect by them because, there would be no use of passing ejectment order against the JD in case the same is not implemented in its proper way. Therefore, at this juncture, I find no substance in the application of the applicants so far as their request of issuing the arrest warrants and thereafter detaining the JD, is concerned. It has no merits so far as the issuance of fresh warrants of possession is concerned because earlier warrants of possession issued by the Court had already been duly executed by the Bailiff because there would be an abuse of the process of Court to issue the same process time and again unnecessarily.

11. Hence, in view of the above terms, this application stands disposed of being dismissed with no order as to costs, on having found the same to have already become infructuous.”

It is an admitted position that the order dated 02.01.2016 passed by the Executing Court has not been challenged by the petitioners.

In view of the above, this Court is satisfied that the order passed by this Court has been duly complied with despite the assertion of the counsel for the petitioners that the petitioners have not been handed over

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the vacant possession of the property by the respondent.

The present petition stands disposed of accordingly.

Rule issued to the respondent stands discharged.

20<sup>th</sup> September, 2018  
*Harish*

(AUGUSTINE GEORGE MASIH)  
JUDGE

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