

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

**CR No. 1430 of 2017 (O&M)**

**Date of Decision: 17.04.2018**

Dharam Pal

.....Petitioner

Versus

Panna Lal through LRs

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. K.S. Rekhi, Advocate  
for the petitioner.

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**SURINDER GUPTA, J.(Oral)**

This is revision petition against order dated 13.07.2016 whereby application filed by revision-petitioner seeking restoration of possession of demised premises was dismissed. Admittedly, revision-petitioner had filed appeal against order of ejectment passed by learned Rent Controller, Amritsar and vide order dated 22.04.2013, he was directed to pay mesne profits @ ₹1200/- per month w.e.f. 31.01.2012, which he failed to deposit before the Executing Court or to pay the same to landlord. Due to non-compliance of order passed by Appellate Authority, warrants of possession were issued and possession of the demised premises was taken from the revision-petitioner on 10.03.2014. The appeal filed by revision-petitioner was also dismissed by the Appellate Authority.

2. The revision-petitioner sought restoration of possession of the demised premises which was delivered to landlord-respondents under the order of Court. Learned Additional Civil Judge (Senior Division), Amritsar on looking into facts of the case and while declining the request of revision-

order as follows:-

“6. I am of the considered opinion that the said claim of the applicant is not maintainable. As per order dated 22.4.2013, the amount of use and occupation charges at the rate ₹1200/- per month were to be paid by the applicant w.e.f. 31.1.2012. The applicant has not paid the said amount. Any amount of ₹35,960/- paid by the applicant during the trial on 24.9.2009 as arrears of rent and interest upon the assessment of the same can not be taken into consideration and set off from the amount of use and occupation charges due to be paid by the applicant after the passing of order dated 22.4.2013. It is admitted by the applicant itself that the applicant did not pay the arrears of rent w.e.f. 1.12.2008. The said non-payment can not be set off from the amount of rent paid by the applicant alongwith interest w.e.f. 1.10.2002 to 30.11.2008. Further, the applicant did not deposit the arrears of use and occupation charges on monthly basis w.e.f. 22.4.2013 to 10.9.2013 as per the directions passed in order dated 22.4.2013. Any such payment made by the applicant w.e.f. 10.9.2013 and onwards does not amount to compliance of order dated 22.4.2013. The appeal filed by the applicant has also been dismissed by the learned Appellate Authority. Since, the applicant did not comply with the order dated

*22.4.2013, therefore, the stay on the execution proceedings which was conditional seized to operate. The warrant of possession was legally issued in favour of the DH. There is no ground to allow the applicant any restoration of possession. The application is a misuse of process of law. The application is dismissed with cost.”*

3. The revision-petitioner has no case for seeking restoration of possession of the demised premises for the reasons, firstly, that he had not complied with interim order allowed by the Appellate Authority in his favour; and secondly, after dismissal of his appeal on merit.

4. This revision petition has no merit and the same is dismissed.

**April 17, 2018**

*jk*

**( SURINDER GUPTA )  
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No