

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

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CR No.2010 of 2016 (O & M)
Date of Decision:08.08.2018

Rajesh Kumar Farma and another

...Petitioners

Versus

Munish Chauhan

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kumar Vishav Aggarwal, Advocate
for the petitioners.

Mr. Aakash Singla, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Tenants-petitioners are in the revision petition against the order dated 07.07.2015 passed by the learned Rent Controller affirmed in appeal by the learned Appellate Authority dismissing the application under Order 9 Rule 13 of the Code of Civil Procedure for setting aside the ex parte eviction order dated 15.03.2013. Petitioners claim that they came to know about the fact only on 11.02.2014 and they did not receive summons on 14.12.2015.

Both the Courts below after appreciation of evidence have found that the tenants had appeared through Sh. G.S. Thind, Advocate before the Court on 12.06.2006 on the basis of 'Memo of Appearance'. Sh. G.S. Thind, Advocate filed power of attorney signed by both the petitioners/tenants on 22.07.2006.

Still further, a new counsel was engaged i.e. Sh. H.P.S. Sodhi, Advocate, who appeared before the Court on 18.08.2006. Petitioners also identified their signatures on the 'Vakalatnama' filed and executed in favour of Mr. H.P.S. Sodhi, Advocate. On the basis of the aforesaid evidence available on the file, the learned Rent Controller and the Appellate Authority have refused to set aside the ex parte eviction order. It may be noticed that eviction order was passed after the trial remained pending for almost seven years. The ejectment petition was filed on 25.05.2006 whereas ex parte eviction order was passed on 15.03.2013.

Learned counsel for the petitioners has submitted that an interpleader suit was filed by them and power of attorney was given for appearing in the aforesaid suit, whereas the counsels appeared in the present petition. On the other hand, learned counsel for the respondent has pointed out that in the interpleader suit, Rajesh Kumar Farma-petitioner No.1 was party, whereas power of attorney (Vakalatnama) is signed by both the petitioners, although she was not party. Hence, the argument of learned counsel is factually incorrect.

This Court has considered the submissions made by respective counsels and with their able assistance gone through the orders passed by both the Courts below while dismissing the application.

The learned Appellate Authority has re-appreciated the facts along with the evidence and found that in fact the case put up by the petitioners is false particularly when the petitioners admit their signatures on the power of attorney. Such mistake can happen only by one Advocate. It is not expected that two counsels would commit the same mistake. Still

further, it is not disputed that petitioner No.2 was not party in the interpleader suit.

Hence, there is no ground to interfere.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

08.08.2018

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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No