

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

CR No.2430 of 2018 (O&M)

Date of decision: 18.04.2018

Naresh Kumar

...Petitioner

Versus

Bachan Singh (since deceased) through his legal heirs

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Munish Garg, Advocate,
for the petitioner.

Ritu Bahri, J.

Petitioner (tenant) has filed the present petition seeking quashing of the order dated 10.03.2018 (Annexure P-4) passed by the Civil Judge (Junior Division)-cum-Rent Controller, Chandigarh in the execution petition, whereby warrant of possession has been issued qua the premises in dispute. A direction was also given to the Bailiff to break open the locks, if the premises in dispute were found locked.

A perusal of the impugned order shows that initially, Bachan Singh-landlord had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act for eviction of Naresh Kumar-tenant (petitioner herein) from the demised shop/premises. The said petition was allowed vide order dated 11.09.2015 (Annexure P-1) passed by the Rent Controller, Chandigarh and tenant-Naresh Kumar was directed to vacate the premises

within two months from the date of filing of the order. Against the said judgment, tenant-Naresh Kumar preferred an appeal. During the pendency of said appeal, the matter was taken up in National Lok Adalat on 12.12.2015, where a compromise was effected between the parties. As per compromise, Naresh Kumar-tenant had agreed to vacate the demised premises and to hand over the keys thereof to the landlord on or before 12.12.2017. Accordingly, the appeal was disposed of as per terms of the compromise vide order dated 12.12.2015 (Annexure P-2). However, before the expiry of two years, Bachan Singh-landlord expired in February, 2017.

As per compromise, JD-tenant (petitioner herein) had carried out his business in the demises premises till 12.12.2017. However, at the time of giving possession, he took up a plea that the original Decree Holder (Bachan Singh) has died and all his legal heirs were not party to the execution petition. This objection has been rightly declined by the Executing Court keeping in view the ratio of the judgment passed by Hon'ble the Supreme Court in **Ram Prakash Sharma vs. Babulal Irla (D) by Lrs. & Ors.**, 2011 (2) Apex Court Judgment 198 (SC).

As per compromise effected before the National Lok Adalat on 12.12.2015, petitioner-tenant had continued to stay and run his business in the demised premises till 12.12.2017. After this time, there is no occasion for him to retain possession of the shop/premises in dispute. Moreover, petitioner-tenant cannot be allowed to back out or resile from his statement, whereby he himself had compromised the matter with original landlord. The plea taken by the petitioner with regard to legal heirs of Bachan Singh is not a valid plea or ground to extend time or dismiss the execution petition.

been found in the impugned order, warranting interference by this Court.

Resultantly, finding no merits, present petition stands dismissed.

18.04.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No