

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3068 of 2018 (O&M)

Date of Decision: 21.05.2018

Khem Lal Bansal

.....Appellant

Vs.

Maninder Pal Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Arjun Veer Sharma, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

Petitioner has come up in revision under Article 227 of the Constitution of India for setting aside the impugned Order dated 20.01.2018 passed by learned Civil Judge (JD) Chandigarh, vide which Executing Court has dismissed the objections in the execution proceedings.

The objection are that Sh.Maninder Pal Singh was neither the landlord nor has any right to claim rent being owner. He further stated that in the year 1972 the entire second floor of H.No.25, Sector-28A, i.e. demised premises was given at rent to the objector by Smt.Iqbal Kaur wife of Sh.Tirlok Singh. Smt.Iqbal Kaur was expired on 06.10.1995 and no Court has decided any declaration on the basis of any alleged Will in favour of any persons and though declaration civil suits were filed on three Wills by some legal heirs of Late Smt.Iqbal Kaur. After her death, Maninder Pal Singh started filing petition after petition against objector. On 15.03.2012 Sh.Maninder Pal Singh filed another rent petition under Section 13 of East Punjab Urban Rent Restriction Act against the objector. Objector submitted written statement dated 05.09.2012 in the Court of Sh.Vijay James, the then Rent Controller in which the objector specifically denied the ownership of lind floor transferred in the name of Sh.Maninder Pal Singh. . On 28.05.2013, an appeal was filed in Appellate court to set aside the judgment and decree dated 09.05.2013 passed by Sh.Vijay James, Ld. Rent Controller, Chandigarh. The appeal have been preferred by the Judgment Debtor in which a compromise was arrived on 20.11.2013 in the Court if

Sh.S.K.Aggarwal Appellate Authority, Chandigarh, in which the JD stated that he would vacate the premises on or before 31.05.2015 and would deposit the same rent in the account of DH. The grievance of the appellant is that execution was filed after a gap of 2 years and 8 months and the petitioner was not given an adequate opportunity to participate and contest the execution application..

In reply to the objections, it is submitted by decree holder that to objection filed by Judgment Debtor is not maintainable since the judgment debtor had vacated the tenanted premises and the decree holder took the possession through the Bailiff of this court and articles lying inside the premises were given on Superdari by the Bailiff to the decree holder and they are still lying in the possession of the decree holder and the objections of objector have already heard and decided by learned Rent Controller Chandigarh as well as by the Appellate Authority, where the objector had suffered an undertaking dated 20.11.2013 to vacate the premises before the Appellate Authority dated 20.11.2013 to vacate the premises before the Appellate Authority on or before 31.05.2015, the decree holder has took the possession by adopting due process of law and at this stage the objections are not maintainable and are liable to be dismissed.

The Executing Court has observed that these objections filed by objector in view of the application moved by decree holder i.e. application for grant of permission to dispose of Article of JD tenant and it is admitted fact by objector that he had already vacated the premises on his own by putting his locks in the tenanted premises and all the averments mentioned by objector in his objection petition regarding ownership of landlord, fraud and other facts cannot be considered in the present execution as this is not the objector who will tell who is the owner and who had taken the ownership by fraud. If he has any grievances regarding above mentioned facts then he has another remedy which he could avail as per law. Here the duty of the Executing Court is to execute decree passed in favour of decree holder and it settled proposition of law that executing Court cannot go beyond decree. Other facts mentioned by objector are not relevant in the present execution petition. Moreover, he himself admitted in his objections that he has vacated the tenanted premises. Report of Bailiff is also on the record and decree

holder took the possession through Bailiff of this Court. This also on record that articles lying in the premises were given on Superdari by Bailiff to the decree holder. Therefore, objections moved by the objector being devoid of merits and it was dismissed by the trial Court.

So in view of the above, the orders of the Court below does not reflect any material irregularity or perversity which warranting interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

21.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No