

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.4357 of 2018 (O&M)

Date of decision: 11.07.2018

Ajit Singh

..... Petitioner

Versus

Gurpal Singh (deceased) through his legal heirs

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Pankaj Jain, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Petitioner-tenant is in the revision petition against the order passed by the learned Executing Court dismissing his objections-cum-application for recalling the order dated 13.09.2017.

Some facts would be required to be noticed. Late Sh. Gurpal Singh (father) and his two sons Kirat Singh and Tirath Singh were owners to the extent of equal share of booth Nos.110 and 111, Sector 40-C, Chandigarh. Two eviction proceedings were initialed under the Rent Act against tenants in possession of both the shops. In the petition filed with respect to booth No.110, it was pleaded that the aforesaid booth is required for daughter-in-law Navneet Kaur wife of Tirath Singh whereas with respect to booth No.111, it was pleaded that the aforesaid booth is required for wife of Kirat Singh. The rent petition with regard to booth No.110 was allowed vide order dated 08.07.2014. The petitioner-tenant filed appeal wherein the parties compromised and the petitioner undertook to hand over

the vacant possession of the premises i.e. booth No.110 by 30.06.2017. It has also come on record that Kirat Singh was in need of money and in a family settlement, booth No.111 fell to his share. Booth No.111 was sold and the entire sale proceeds were transferred in the bank account of Kirat Singh i.e. Rs.14,85,000/- on 16.08.2013.

However, Kirat Singh colluded with the tenant-petitioner. It was depicted that the tenant-petitioner handed over the possession of booth No.110 to Kirat Singh and he thereafter executed a fresh lease deed in favour of the petitioner. Obvious effort is to go back from the undertaking. The petitioner-tenant is using Kirat Singh to frustrate the right of Tirath Singh and his family to take over the possession of booth No.110.

The learned Executing Court after examining the aforesaid facts has passed a detailed order dismissing the objection petition-cum-application for recall.

This Court has heard learned counsel for the petitioner-tenant at length.

Learned counsel for the petitioner-tenant has submitted that fresh lease deed executed is genuine as the rate of rent has been increased from Rs.4500/- to Rs.21,000/-. He submitted that Kirat Singh is one of the co-owner and therefore, he is entitled to give the booth on rent. Learned counsel has further submitted that the objections filed by the petitioner-tenant has been wrongly dismissed.

This Court has considered the submission. It is not disputed before this Court that the petitioner had undertaken to hand over the vacant possession of the premises by 30.06.2017 keeping in view the requirement of Navneet Kaur wife of Tirath Singh. So the possession was to be handed

over to Tirath Singh or his wife. However, with a view to circumvent the undertaking given, the petitioner-tenant devised a plan and thereafter, colluded with Kirat Singh. The learned Executing Court has found that once the eviction proceedings have become final and Kirat Singh had already taken away the entire consideration of booth No.111, he was left with no right to give booth No.110 on fresh lease to the same tenant.

Argument of learned counsel that fresh lease deed is with increased rent also cannot be accepted because the eviction was sought for bona fide requirement of Navneet Kaur wife of Tirath Singh.

Second argument of learned counsel is that his objections has also been dismissed is just to be noticed and rejected. Learned Executing Court has discussed and analyzed the objections which were to same effect only. Hence, the learned Executing Court has correctly dismissed the objections.

In view of the aforesaid, there is no ground to interfere with the order passed by the learned Executing Court.

Revision petition is dismissed.

11.07.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No