

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4805 of 2015 (O&M)

Date of Decision: 03.07.2018

Ranjit Kaur

.....Appellant

Vs.

Surinder Singh Bhatia

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Munish Gupta, Advocate, for the appellant.

Mr.K.S.Dhillon, Advocate, for the respondent.

RITU BAHRI, J. (ORAL)

The present revision has been filed by the petitioner-Ranjit Kaur against the order dated 13.07.2015 (Annexure P-4) whereby, objections filed by the petitioner in the execution petition have been dismissed as she had tendered the rent only on 02.01.2012 which has not been accepted by the Court.

On 03.08.2015, notice of motion was issued and it was observed that the learned Rent Controller vide order dated 04.01.2007 had ordered ex-parte ejectment order against the petitioner herein (tenant) with the observation that in case the tenant-Ranjit Kaur deposits the amount of Rs.31,000/- as arrears of rent, interest and costs for the period in question, the ejectment order being in-executable and no time was fixed within which the said amount was to be deposited. Dispossession of the petitioner was stayed subject to payment of entire arrears of rent within 15 days.

The objection to tender the rent filed by the respondent-decree

holder on 09.02.2015 and reply was filed by the petitioner/JD respondent and the landlord had withdrawn the amount and objections was rendered infructuous.

Learned counsel for the respondent/landlord at the outset has stated that vide order dated 13.07.2015, an application under Order 9 rule 13 CPC has been filed by the tenant/petitioner herein for setting aside the ex-parte order which has been dismissed. Learned counsel for the petitioner was not disputing the said order. A perusal of this order shows that knowledge of exparte ejectment order dated 04.01.2007 was known to the tenant/petitioner herein on 24.10.2008 . When the tenant/petitioner has filed her objection under Section 47 CPC for dismissal of the execution application, the respondent/landlord has withdrawn the execution application on 20.12.2008. the respondent/landlord again received summons dated 12.12.2009 issued by the Court of Sh.Jaspinder Singh, the then Rent Controller, Jalandhar in the execution application No.52 of 09 to vacate the property in dispute. The respondent made an appearance and moved objection petition dated 04.03.2010 under Section 47 CPC for dismissal of the execution petition. A plea was taken by the tenant was that the learned Rent Controller dismissed the application by observing on the first execution petition. She had filed her objections on 24.10.2008. Thus she was having the knowledge regarding the passing of ejectment order even on 24.10.2008. the petition of limitation for getting set aside the exparte order is 30 days, but present application was filed on 26.08.2011 i.e. after more than three years of the knowledge of the applicant. Hence, on the ground of delay, finding on issue number 1 was given against the petitioner Ranjit Kaur.

16.01.2015:-

1. Whether applicant has sufficient reason to set aside the ex-parte order dated 04.01.2007? OPP
2. Whether the present application is barred by the limitation? OPR.
3. Whether the application is not maintainable in the present form? OPR.
4. Relief.

No evidence has been led on issued No.3 nor any arguments were advanced by the learned counsel for the petitioner/Ranjit Kaur. The application was finally dismissed with costs.

The present petitioner cannot take any benefit since she was in the knowledge of the order dated 20.12.2008 and she tendered the rent only on 02.01.2012. Hence, the learned Rent Controller had rightly held that the deposit on 02.01.2012 will not be considered as the compliance of the ejectment order dated 04.01.2007. Moreover, in paragraph 11 of the impugned order, it has been observed that as final order was passed on 04.01.2007, the first day of hearing would mean the day petitioner-Ranjit Kaur appeared in the execution application. Petitioner-Ranjit Kaur appeared on 03.02.2010, but did not tender any rent. Ultimately, she tendered rent only 02.01.2012..

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

(RITU BAHRI)
JUDGE

03.07.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No