

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

Civil Revision No. 6449 of 2018 (O&M)

Date of decision : September 25, 2018

Smt. Sumitra Devi (deceased) through LRs

.....Petitioners

Versus

Narinder Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sukhmeet Singh, Advocate
for the petitioners.

LISA GILL, J.

The petitioners are aggrieved of order dated 20.03.2012 passed by the learned Rent Controller, Moga, order dated 21.03.2017 passed by the learned Additional Civil Judge (Senior Division), Moga as well as order dated 22.03.2018 passed by the learned Additional District Judge, Moga.

Brief facts necessary for adjudication of the case are that the predecessor-in-interest of the petitioners namely Sumitra Devi was the tenant of the demised premises. The respondents are the landlords/owners. They filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act (for short – 'the Act') seeking eviction of the predecessor-in-interest of the petitioners on various grounds. Sumitra Devi was duly served in the said petition under Section 13 of the Act but she did not appear despite service through *munadi* and affixation. She was proceeded against *exparte* on 29.04.2008. Petition under Section 13 of the Act was ultimately decided in favour of the respondent – landlords on the ground that the tenant was in arrears of rent vide judgment dated 20.03.2012 by the learned Rent Controller.

An application for setting aside *exparte* ejectment order dated

20.03.2012 passed by the learned Rent Controller, Moga was moved by the legal representatives of Sumitra Devi on 01.07.2013 claiming Sumitra Devi was never served, no *munadi* was ever conducted at the place of residence of the applicants and they came to know of the proceedings when they received summons in the execution application for 03.08.2013. The application was contested by the landlords – respondents.

Following issues were framed:-

1. Whether there are sufficient grounds to set aside exparte order dated 20.03.2012?OPP
2. Whether application of applicant is within limitation?OPA
3. Relief.

Learned Additional Civil Judge (Senior Division), Moga dismissed the application on 21.03.2017 while specifically holding that Sumitra Devi had been duly served in the proceedings dismissed the application for setting aside the exparte eviction order. AW1 Sushil Kumar i.e. petitioner no. (i) admitted that summons were issued to Sumitra Devi on her correct residential address. It is further admitted that Sukhwinder Singh, who was residing near his house, was known to him. Sukhwinder Singh is the person who witnessed the report dated 24.01.2008 of refusal to accept summons by Sumitra Devi. It is relevant to note that there is admittedly no enmity of the petitioners with Sukhwinder Singh.

Appeal preferred by the present petitioners was also dismissed by the learned Additional District Judge, Moga vide order dated 22.03.2018. Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioners submits that their predecessor-in-interest i.e. Sumitra Devi was never served in the proceedings under Section 13 of the Act. Report regarding service of

summons and *munadi* is false and manipulated. It is, thus, prayed that this revision petition be allowed.

Learned counsel for the petitioners has been heard and the file perused.

In the petition under Section 13 of the Act, notice was issued to Sumitra Devi. She refused to accept the summons. The respondents examined Gurcharan Singh, Bailiff who was serving as Process Server on 18.02.2008. Gurcharan Singh affirmed that he visited the given address but Sumitra Devi refused to accept the service. He tendered report (Ex.PW1/B). Process server was accompanied by Sukhwinder Singh son of Amar Singh, who was also a witness before the Court. Sushil Kumar AW1, admitted the address of Sumitra Devi as mentioned in the summons to be correct. He could not deny whether any Court official visited their house for effecting service upon his mother. He feigned ignorance about the same. It has come on record that Sumitra Devi had earlier also contested civil litigation with the present landlords. The date of death of Sumitra Devi has also not been revealed.

It is rightly noticed by the learned Additional District Judge, Moga that, though, once Sumitra Devi had refused to accept notice it constituted due service upon her, but the learned Rent Controller still directed substituted service by way of affixation and *munadi* as well. Process Server, Girdhari Lal, affirmed that on 07.04.2007, he visited the given address (accepted to be correct by AW1 Sushil Kumar son of Sumitra Devi), *munadi* was effected by beat of drum in the presence of Jaswinder Singh son of Kishan Singh. Report (Ex.PW2/B) was proved on record. Even thereafter Sumitra Devi chose not to join the proceedings and she was

proceeded exparte on 29.04.2008. In the facts and circumstances of the case, it cannot be concluded that Sumitra Devi was not duly served. Learned counsel for the petitioners on a pointed query, candidly concedes that the petitioners are, even as on date, in arrears of rent.

There are concurrent findings of fact returned by the learned courts below on proper appreciation of evidence on record. There is no perversity or error in the said finding.

Learned counsel for the petitioner is unable to point out any illegality and infirmity in the impugned order dated 20.03.2012 passed by the learned Rent Controller, Moga, order dated 21.03.2017 passed by the learned Additional Civil Judge (Senior Division), Moga as well as order dated 22.03.2018 passed by the learned Additional District Judge, Moga, which calls for any interference in exercise of revisional jurisdiction by this Court.

Present petition is, accordingly, dismissed.

September 25, 2018
rts

(Lisa Gill)
Judge

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