

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

**Civil Revision No.8401 of 2014 (O&M)
Date of Decision:February 26, 2018.**

Sajjan Kumar

.....PETITIONER(s).

VERSUS

Manuj Kumar

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ajay Kumar Kansal, Advocate
for the petitioner (s).

Mr. Ashish Gupta, Advocate
for the respondent.

SURINDER GUPTA, J.

Sajjan Kumar filed this revision petition challenging the order passed by Rent Controller and the Appellate Authority ordering his ejection from the demised premises.

On 10.12.2014, when the revision petition was taken up, learned counsel for the revision petitioner in consultation with the revision petitioner, opted not to press this revision petition on merits and sought reasonable time to hand over the vacant possession of the demised premises.

Order dated 10.12.2014 is reproduced as follows:-

“Heard.

After arguing for a considerable long time, learned counsel for the petitioner, after having instructions from the revision petitioner, submits that he does not press this

revision petition on merits. He submits that revision petitioner is carrying on his business in the demised premises and may be allowed reasonable time to hand over the vacant possession of the demised premises and find alternate premises for his business.

Notice of motion to this extent only for 23.12.2014.

Dasti as well.

The ejectment order shall remain stayed, till the next date of hearing, subject to payment/depositing of entire rent/mesne profits within two weeks.”

Before the next date of hearing, revision petitioner moved an application seeking recalling of the order dated 10.12.2014 with the plea that he had come to know about the previous eviction suit filed by the respondent-landlord against one Radha Rani. In that suit, he succeeded in getting premises vacated on the basis of compromise and this fact was not disclosed in the ejectment petition.

Learned counsel for the petitioner has argued that as per order dated 08.11.2008 passed in Lok Adalat, tenant Radha Rani had agreed to vacate the shop in her possession by 01.12.2010. That suit was filed by Ram Lal Singla, Manuj Singla and Smt. Madhu Singla. Respondent has not disclosed the possession of that shop in the ejectment petition.

Argument of learned counsel for the revision petitioner call for outright rejection as the shop under that settlement was to be vacated by Radha Rani on 01.12.2010 and this petition was filed on 10.11.2009. There is nothing on record to show that the settlement was honoured. Even otherwise, that suit was filed by three co-owners and not by the respondent-landlord alone. At the time of filing of the ejectment petition, there was no

occasion for the respondent to mention that he is in possession of the shop

vacated by Radha Rani.

Learned counsel for the revision petitioner has drawn my attention to the observations of Single Bench in case of ***Jaspreet Takhar Vs. Ghai Enterprises 2013 (2) RCR (Civil) 650*** and ***Ravinder Sood and another Vs. Mohan Lal 2013(2) RCR (Rent) 91***, in support of his contention that non-disclosure of availability of other accommodation is a concealment and non-compliance of provisions of Section 13 (3)(a)(i)(b) of East Punjab Urban Rent Restriction Act, 1949 (later referred to as 'the Rent Act'). However, above citation, in no manner, help the revision petitioner. In this case, when the matter was taken up on 10.12.2014, learned counsel for the revision petitioner, in consultation with revision petitioner, had sought time to vacate the demised premises and not to press this revision petition on merits. It was after the issuance of notice of motion, he came up with application for recalling of that order. I find no reason for recalling the order merely because under some settlement, a shop owned by respondent and some other co-owners was ordered to be vacated during the pendency of the ejectment petition as provisions of Section 13(3)(a)(i) (b) of the Rent Act require that petitioner should plead that he is not occupying another premises in the urban area concerned, at the time of filing petition, which is suitable for his business/use.

It has been brought to my notice by learned counsel for the respondent that possession of the shop has already been taken from the petitioner, who is pursuing this revision petition without any reason only to keep the lis pending. Though, I do not intend to comment on the conduct of the revision petitioner but certainly it requires to take note that he has

misused the process of the Court. After addressing detailed arguments when the counsel for the revision petitioner found that he had no case on merits, he confined his submission only for grant of some time to the respondent to vacate the premises and later on tried to back out from his submission, which he had put forth under instructions from revision petitioner. Though this calls for imposing heavy costs on revision petitioner but keeping in view the fact that he was a tenant in the demised premises which has already been got vacated from him, I refrain from imposing any costs on him. The applications (CM Nos.28846-47-CII of 2014) filed by the revision petitioner as well as revision petition have no merits.

Dismissed.

February 26, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***