

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

**ESA No.4224 of 2018 (O&M)
Date of Decision: December 19, 2018.**

Nakul Sharma

.....APPELLANT(s).

VERSUS

Avtar Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Om Pal Sharma, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

Learned counsel for the appellant submits that the shop in dispute was earlier under tenancy of Kiran Sharma. She had taken this shop from Bhupinder Singh vide rent note dated 01.03.2000. Respondent Avtar Singh after purchasing part of the property from sister of Bhupinder Singh, filed ejectment petition against Kiran Sharma on 13.08.2008, which was allowed on 22.01.2015. Against the ejectment order, Kiran Sharma filed appeal on 21.02.2015. During the pendency of the appeal, she entered into a compromise dated 10.02.2016 with Manpreet Singh son of Bhupinder Singh and under the compromise, she surrendered the possession in favour of Manpreet Singh and the appeal was withdrawn. Manpreet Singh thereafter let out the portion to objector/appellant Nakul Sharma vide memo of understanding dated 11.02.2016. Avtar Singh sought execution of the

ejectment order and on issuance of warrants of possession, the appellant filed objections, which were dismissed by the executing Court and the appeal filed by him was also dismissed. The appellant has independent right of tenancy under Manpreet Singh son of Bhupinder Singh, earlier landlord, as such, warrants of possession could not be executed against him.

On giving a careful thought to the submission of learned counsel for the appellant, I find that the appellant has been put forth by the original tenant in collusion with son of earlier landlord in a very clever manner. After passing of ejectment order against the original tenant Kiran Sharma, she had challenged the same in appeal. However, very cleverly under some expert guidance, she manipulated a document of compromise dated 10.02.2016 with Manpreet Singh son of late Bhupinder Singh, whose sister had sold the property to the respondent. On the next day i.e. 11.02.2016, a memorandum of understanding is stated to have been executed between Manpreet Singh and appellant Nakul Sharma, who is none-else than son of Kiran Sharma, to create tenancy in his favour.

After the withdrawal of the appeal by Kiran Sharma, the order passed by the Rent Controller has attained finality and was required to be executed against Kiran Sharma as she has never surrendered the possession to the respondent. The entire case put forth by the appellant shows a clever move by the appellant Nakul Sharma in connivance with Kiran Sharma (his mother) and one Manpreet Singh to defy the order passed by the Rent Controller without legal recourse. Such type of tactics as have been played by the tenant, who lost before the Rent Controller, cannot be allowed to delay the execution and both the Courts below have rightly taken note of it

while dismissing the objections with observations that these objections have been filed with mala fide intention.

On perusal of the orders of the Courts below, I find no legal or factual infirmity therein calling for any interference.

This appeal has no merits.

Dismissed.

December 19, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

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

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