

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CR No. 23 of 2019 (O&M)
Date of decision: 23.5.2019

Kawalpreet Kaur

...Petitioner

Versus

Avtar Singh Banga and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajan Bhargava, Advocate,
for the petitioner

JAISHREE THAKUR, J.

This revision has been filed under Article 227 of the Constitution of India with a prayer for setting aside the order dated 8.12.2018, whereby the Additional Civil Judge (Senior Division), SBS Nagar, issued warrants of possession, while giving permission to the bailiff to break open the lock of the premises in dispute and deliver the possession to the respondents/landlord.

In brief, facts are that respondents—Avtar Singh and another filed a petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short '**the Act**') against Gurbachan Singh son of Jagat Singh, for recovery of possession of the shop detailed in the head note. The ejectment petition was not contested and Gurbachan Singh was proceeded ex-parte on 21.11.2016, as he did not put in appearance. The Rent Controller directed the respondent—Gurbachan Singh to hand over the

vacant possession of the demised premisses to the landlord. Thereafter, execution petition was filed and the petitioner herein filed objection petition before the executing court taking a plea that she was a widow of Gurbachan Singh's son. In the petition, it was stated that a fraud is being played upon her as Gurbachan Singh did not deliberately appear to contest the petition under Section 13-B of the Act. It was argued that earlier too the landlord had sought eviction under Section 13-B of the Act, which was contested by Gurbachan Singh and the said petition was dismissed being not maintainable. It is contended that in between the earlier petition and now the son of Gurbachan Singh and the husband of the petitioner/objector has died and, therefore, Gurbachan Singh did not bother to contest the eviction petition. It is argued that she is in possession of the said premises and, therefore, her ejectment cannot be ordered.

The objection petition was contested, in which it was stated that the husband of the objector was never inducted as a tenant in the tenanted shop and, therefore, since the eviction petition was not contested, the order of ejectment has rightly been ordered and that the landlord would be entitled to the possession, in terms of the ejectment order passed by the Rent Controller. The executing court, while dismissing the objections, held that there was no relationship between the landlord and the objector and, as already noticed, ordered delivery of possession of the demised premises. Aggrieved against the said order, the instant revision has been filed.

Learned counsel appearing on behalf of the petitioner vehemently contends that the order of ejectment as well as order passed by the executing court is not sustainable on the ground that the petitioner has

been in possession of the demised premises since her husband was occupying the same. It was also argued that earlier too an ejectment petition filed by the landlord/respondents was rejected as they were not able to establish their bonfide requirement of the said premises.

I have heard learned counsel for the petitioner and find no merit in the arguments that have been raised.

Admittedly, an ejectment petition was filed against Gurbachan Singh, who was proceeded ex-parte by the Rent Controller as he did not put in appearance and it is thereafter that execution proceedings were initiated. The petitioner herein has not been able to establish the fact that she is in occupation of the premises in her own independent capacity or on account of the fact that her husband was occupying the premises as a tenant. Once the original tenant chose not to contest the application for ejectment, any occupant of the premises would not be entitled to do the same. The executing court has rightly come to the conclusion that there is no relationship between the objector and the landlord.

There is no illegality or irregularity in the impugned order so passed. Consequently, the revision petition is dismissed.

23.5.2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No