

CR 2827-2018 (O&M)

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

CR No. 2827-2018 (O&M)

Date of Decision: November, 28th 2019

Yash Pal Kapoor

.....Petitioner

Versus

Piar Kaur (since deceased) through her LRs

.....Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rahul Rampal, Advocate
for the petitioner.

JAISHREE THAKUR, J. (ORAL)

The instant revision petition has been filed seeking to challenge the ex parte order of eviction and the dismissal of the application under Order 9 Rule 13 of the Code of Civil Procedure, for setting aside the ex parte order for eviction dated 11.10.2010 and the dismissal of the application under Order 9 Rule 13 for setting the same aside.

2. In brief, the facts are that the respondent filed eviction petition before the Rent Controller, in which eviction was ordered as the tenant-petitioner did not come forward to contest the case. Subsequent to that order, an application under Order 9 Rule 13 CPC, was filed for setting the same aside by stating that service had not been effected upon him and that he had come to know when the Bailiff got possession of the property on 13th June 2012.

3. The application was contested and evidence was led and thereafter, the application was dismissed by an order dated 9th November, 2016.

4. Aggrieved with the same, the instant revision petition has been filed. Learned counsel vehemently argues that service had never been effected upon the petitioner herein and he was never served with the copy of the eviction petition filed under Section 13 of the East Punjab Urban Rent Restriction Act, and therefore, a fraud had been played upon him. It is also argued that the Rent Controller ought to have set aside the ex parte order and given an opportunity to the petitioner to contest the case.

5. I have heard the learned counsel for the petitioner and find that no ground is made out to interfere in the well-reasoned judgment of the Rent Controller dismissing the application under Order 9 Rule 13 CPC. It is worthwhile to note that the evidence had been led in this regard as to whether service had been effected or not and it is only thereafter that the Rent Controller came to the conclusion that service had been effected upon the petitioner and the petitioner had not come to Court within 30 days of receiving of notice and, therefore, had rightly been proceeded ex parte. Even otherwise this Court is not inclined to interfere, since the possession has already been taken as far back as the year 2012.

6. Dismissed.

NOVEMBER 28, 2019
Ajay Goswami

(JAISHREE THAKUR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No