

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

CR No. 543 of 2019 (O&M)
Date of decision: 24.1.2019

Harbans Lal (deceased) through his L.R.s

...Petitioner

Versus

Jasbir Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rohit Ahuja, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

This is a petition that has been filed seeking to challenge the order dated 30.11.2018 and the order dated 14.12.2018 passed by the Additional Civil Judge (Senior Division), Pathankot, dismissing the objections of the petitioner herein in the execution petition filed seeking possession of the demised premises as well as the order issuing warrants of possession and appointing bailiff.

In brief, the facts are that an eviction petition came to be filed by Jasbir Singh and another seeking eviction of the tenant—Harbans Lal since deceased and represented through his legal representative, namely Sarita Sareen, on the ground of personal necessity. The said petition was allowed and the eviction order was passed, which was affirmed upto this Court in revision petition. Thereafter, execution petition was filed seeking possession, in which objections came to be filed by the tenant by taking a plea that the premises in question do not actually belong to Jasbir Singh. It

was submitted that the municipal record would reflect that Jasbir Singh is not the owner of the premises in question and in fact, the property was owned by one Baljinder Singh. It was further argued that even said Baljinder Singh is neither NRI nor the house is required by him for his self-occupation since he is the resident of Pathankot and, therefore, a fraud has been played upon the tenant/petitioner.

Reply was filed to the objection petition taking a plea that the objector had filed a revision petition against the order of ejectment in the High Court, which remained pending for five years and eventually came to be disposed of on 25.5.2017. It was argued that the plea disputing the ownership could have been taken at the relevant time and not during the execution proceedings, while reiterating that Jasbir Singh is the actual landlord and owner of the demised premises. The objection petition came to be dismissed which has led to filling of the instant petition.

Learned counsel for the petitioner herein contends that a fraud has been played and the actual owner of the demised premises is not Jasbir Singh and, therefore, without taking these objections into consideration, the same have been dismissed.

I have heard learned counsel for the petitioner and have also perused the pleadings of the case.

Admittedly, the petitioner herein has been ordered to be ejected. An execution petition has been filed seeking possession of the demised premises. A perusal of the order passed in Civil Revision No. 3047 of 2012, which has been annexed with this petition, would reflect that the order of eviction had been challenged and notice of motion had been issued on

18.5.2012, on the statement given by the learned counsel for the petitioner that he would not press the petition but sought one year time to enable the petitioner to vacate the demised premises. In such a situation, when the petitioner himself had given up his pleas to challenge the order of eviction and rather sought time only to vacate the premises, any objection that has been filed shows that the same has been done to scuttle the execution proceedings. Moreover, the executing court rightly held that it was settled law that the landlord need not always be the owner. Apart from this, the executing court also took into consideration a copy of the record obtained from the Municipal Corporation, Pathankot (copy of assessment register) pertaining to the demised premises, wherein the decree-holder has been shown to be the owner of the demised premises, while dismissing the objection petition.

I find no infirmity in the impugned order so passed. The revision is dismissed.

24.1.2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No