

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3748-2019 (O&M)

Date of decision: 12.09.2019

Kimti Lal (deceased) through LRs

...Appellant

Versus

Sandeep Mittal

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Munish Mittal, Advocate,
for the appellant.

Mr. Ramnish Puri, Advocate,
for the respondent.

JAISHREE THAKUR, J. (ORAL)

1. This Civil Revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 21.05.2019 passed by Civil Judge (Jr. Divn.), Yamuna Nagar at Jagadhri in Execution Petition No. 57 dated 01.03.2018 whereby warrants of possession have been issued.
2. In brief, the facts are that an ejectment application has been filed by the respondent herein under the provisions of Haryana Urban (Control of Rent and Eviction) Act, 1973 on the ground of personal necessity, the building being unfit for use and occupation and material impairment. After the evidence had been led by both the parties, the Rent Controller ordered

ejectment on the grounds of the premises being unfit and unsafe for human habitation as well as bona fide requirement of the respondent landlord. The petitioner-tenant was directed to hand over actual and physical possession of the shop in question within a period of two months.

3. Against the said order, an appeal was filed. During the pendency of the appeal, the respondent herein also preferred an execution application seeking possession of the said premises since there was no stay in the appeal filed. Since warrants of possession had been issued, the petitioner- tenant herein filed the instant revision petition on the ground that without the appeal being decided, the execution should not proceed. It was argued that the appeal was pending for final disposal and, therefore, an opportunity be allowed to the petitioner herein to address arguments before the Appellate Authority.

4. This Court by its order dated 31.05.2019 took note of the contention raised and issued notice of motion for today with a specific direction that the Executing Court should adjourn the case for 06.09.2019 with a rider which stipulated *“However, the stay order is conditional to the effect that the petitioner herein would not get the matter adjourned on the date it is fixed. He will present himself for arguments in the appeal itself.”*

5. Counsel for the respondent has put in an appearance and has shown the order passed by the Addl. District Judge, Yamuna Nagar at Jagadhri, which clearly shows that instead of arguing the matter on the date it was fixed, he had sought an adjournment on the ground that a Civil Revision against warrants of possession had been filed. This Court is of the opinion

that the tenant has deliberately sought an adjournment despite the fact that he had made a statement in this Court that he would not seek an adjournment.

6. The question remains as to whether one more opportunity should be allowed to the tenant herein to address arguments in the appeal despite the fact that he had sought an adjournment contrary to the understanding that he would not do so.

7. Keeping in mind, the interest of the tenant and that the appeal has now been listed for 19.09.2019, the instant revision petition is being disposed of allowing the petitioner herein one more opportunity to address arguments on 19.09.2019 subject to payment of ₹ 10,000/- as costs to the respondent herein. In case the costs are not deposited and arguments not addressed, the Executing Court would be at liberty to proceed with the matter.

8. It is clarified that in case the tenant-petitioner herein does not deposit the cost of ₹ 10,000/- or address arguments on the date fixed, any interim protection granted by this Court, will stand automatically vacated.

9. With the above observation, the instant revision petition is disposed of with direction for the executing court to adjourn the matter once more beyond the date fixed in the appeal.

12.09.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.