

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-5066-2019

Date of decision: 09.09.2019

Subhash Chander and another

..... Petitioners

Versus

Nand Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Rose Gupta, Advocate for the petitioners.

Mr. Suman Jain, Advocate for the respondents.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioners have laid challenge to order dated 24.07.2019 (Annexure P-16) whereby Executing Court, has directed them to vacate the demised shop within a week, upon deposit of FDRs by the respondents-landlord which un-disputedly, have already been deposited.

Briefly, contesting respondents No. 1 and 2 filed various eviction petitions against the petitioners. However, the same are not relevant for decision of this revision, inasmuch as, this revision only pertains to Rent Petition No. 15 instituted on 17.04.2005 and decided on 08.04.2014, whereby learned Rent Controller, accepting eviction petition of contesting respondents No. 1 and 2, on the ground of *bona fide* personal necessity and non-payment of rent directed the petitioners to

vacate the demised shop within two months.

Being aggrieved, the petitioners approached the Appellate Authority. During its pendency, compromise (Ex. C-1) dated 26.07.2017 (Annexure P-1) arrived at between the parties, whereby the petitioners undertook to vacate the demised shop on or before 01.02.2019 with stipulation that in case, they do not vacate the same, they shall pay ₹20,000/- per month w.e.f. 08.08.2017 till vacation of the shop. It was also agreed between them that contesting respondents No. 1 and 2 would withdraw the entire amount deposited by the petitioners in various Courts towards arrears of rent, wherein petitioners shall have no objection. Pursuant to the aforesaid compromise, petitioners got their appeal dismissed as withdrawn vide order dated 10.08.2017 (Annexure P-5), but did not vacate the demised shop in utter violation of their undertaking on 01.02.2019. Consequently, respondents No. 1 and 2 filed Execution Application (Annexure P-7) for eviction of the petitioners. The petitioners therein filed objections (Annexure P-8) which, on contest, tooth and nail by contesting respondents No. 1 and 2 were dismissed by the Executing Court vide order Annexure P-16, impugned herein, thereby directing the petitioners to vacate demised shop within a week, leaving the matter open regarding withdrawal of money lying deposited with the Court to be decided after framing of issues and recording evidence of the parties.

Learned counsel for the petitioners, while drawing attention of this Court upon two more compromises dated 28.07.2017 and 10.08.2017 Annexures P-2 and P-3, respectively and undertaking dated

10.08.2017 (Annexure P-4) urged that according to subsequent compromises during the pendency of appeal of the petitioners, contesting respondents No. 1 and 2 were bound to repay entire payment paid by the petitioners to them, since, the year 1984 as enumerated in tabulated chart (Annexure P-12), amounting to ₹8,18,068, besides ₹6,51,000/-, which contesting respondents No. 1 and 2 agreed to pay vide their undertaking dated 10.08.2017 (Annexure P-4) totalling around ₹14,69,068/-. Since, contesting respondents did not pay the said amount to the petitioners in violation of terms and conditions of compromise Ex. C-1, therefore, the petitioners have illegally been ordered to vacate the demised shop. The Executing Court, instead of passing the impugned order, ought to have decided objections (Annexure P-8) raised by the petitioners simultaneously, while directing the petitioners to vacate the demised shop.

On the other hand, learned counsel for the respondents vehemently refuting the above submissions pleaded the legality and validity of impugned order.

Having given thoughtful consideration to the rival submissions, this Court finds that the instant revision is an dishonest and *mala fide* attempt of the petitioners to circumvent compromise Ex. C-1 and eviction order of the learned Rent Controller dated 08.04.2014 against them to retain possession of demised shop, illegally. Chart (Annexure P-12) annexed with this petition shows that since 01.02.1984, the petitioners deposited a total sum of ₹8,18,068/- towards arrears of rent. Besides the above amount, the petitioners also wanted to take back

₹6,51,000/- from contesting respondents No. 1 and 2-landlord, detail of which was given in the aforesaid undertaking, totalling ₹ 14,69,068 i.e. equivalent to the rent paid by the petitioners to the respondents-landlord, since, the year 1984 in the last 35 years. Meaning thereby, the petitioners, being in dominating position and in possession of the demised shop, dictated all unreasonable and unrealistic terms to contesting respondents No. 1 and 2 and forced them to agree to the same under undue illegal pressure with an intent to get their demised shop vacated. Imposing of above condition of refunding of entire rent deposited or paid by the petitioners to respondents-landlord, in itself speaks volumes about their greed, dishonest and mala fide intention of enjoying unlawful possession over the demised shop free of cost for 35 years.

Subsequent compromise (Annexures P-2 and P-3) entered into between the parties filed in other litigation between the parties are not relevant for decision of this revision, inasmuch as, they do not relate to the impugned order.

It is pertinent to mention here that under the garb of objections (Annexure P-8), the petitioners still want to retain possession of the demised shop, illegally, raising all false pleas, despite production of fixed deposit receipts (FDRs) of the total amount by contesting respondents No. 1 and 2 before the Executing Court. Therefore, it is apparent that rights of the petitioners have already been protected by the Executing Court and they are not going to suffer any loss in any manner, in case, they are directed to vacate the demised shop within a week.

Since, the petitioners have not vacated the demised shop on 01.02.2019, despite their undertaking in written compromise (Ex. C-1) Annexure P-1, therefore, as per its terms and conditions, the Executing Court shall recover ₹20,000/- as *mesne profits* from the petitioners as agreed by them in the aforesaid compromise along with reasonable interest w.e.f 08.08.2017.

Since, the petitioners have violated the terms and conditions of compromise Ex. C-1, therefore, they are directed to vacate the demised shop within a week from today.

This Court, while exercising revisional power, has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond the jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioners has not been able to point out any such infirmity.

Petitioners are the persons, who under the garb of their tenancy rights halted the progress of this Country, since last 5-6 decades, inasmuch as, every landlord remained reluctant in investing his surplus money with the object to earn extra income by raising new constructions/buildings for bright future of new generation to come. The reason was obvious that they remained under constant fear that even his newly constructed buildings, if rented out, would not ever be vacated, which, ultimately, resulted in causing huge revenue loss to the State or its instrumentalities, such as house tax, property tax etc., preventing development work, such as construction of roads, parks, streets, coming

of new colonies and generation of new avenues. The tenants, like petitioners, have brought bad name even to genuine tenants.

I have carefully gone through the impugned order and find no illegality or perversity in the same.

The instant revision, being meritless, is dismissed.

The Executing Court is directed to get the demised shop vacated within one week from today, failing which the petitioners shall pay *mesne profits* @ Rs.70,000/- per month, inasmuch as, the petitioners have violated the terms and conditions of compromise.

September 09, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No