

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-6826-2019

Date of decision: 30.10.2019

Surinder Mittal

..... Petitioner

Versus

Rajwinder Gogna

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. KS Dadwal, Advocate for the petitioner.

RAMENDRA JAIN, (ORAL)

Through this revision under Article 227 of the Constitution of India, petitioner-tenant has laid challenge to order dated 01.10.2019 (Annexure P-13) of Executing Court, whereby his objections dated 01.10.2019 (Annexure P-12), were dismissed.

Briefly, respondent-landlord, filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, for eviction of petitioner from the demised shop measuring 2100 Sq. feet, situated at GT Road, Phagwara, which after notice to the petitioner was accepted by learned Rent Controller, vide order dated 05.01.2019 (Annexure P-4). It is pertinent to mention here that during the pendency of said eviction petition, Municipal Corporation, Phagwara sealed the demised shop for non-payment of house-tax.

Being aggrieved, petitioner approached this Court by way of

CWP-6277-2016 which was dismissed by a co-ordinate Bench of this Court,

vide order dated 11.04.2016 (Annexure P-1).

Being dis-satisfied, petitioner approached the Apex Court by way of SLP(C) No. 26425-2016, but remained un-successful, as the same was also dismissed as having rendered infructuous vide order dated 22.01.2018 (Annexure P-3).

Pursuant to the eviction order Annexure P-4, respondent-landlord filed execution, wherein the Executing Court issued warrants of possession. To circumvent warrants of possession against him, the petitioner lodged an FIR 0224 dated 02.09.2019 (Annexure P-6) under Sections 379, 448 and 461 IPC at Police Station City Phagwara, against respondent-landlord, on the allegations that he illegally and forcibly took possession of the demised shop by breaking open his locks and also came before the Executing Court with the similar plea. However, Executing Court believing the statement of bailiff dated 26.09.2019, ordered for police help for execution of warrants of possession. Pursuant thereto, the bailiff got delivered the possession of demised shop to respondent-landlord. Thus, vide order dated 01.10.2019 Annexure P-13 (impugned herein), dismissing the objections of petitioner, execution of respondent-landlord was permitted to be withdrawn being fully satisfied.

Learned counsel for the petitioner *inter alia* contends that during investigation under the surveillance of Superintendent of Police, Phagwara, Station House Officer, Police Station City, Phagwara, went to the spot and found lock and key of demised shop with caretaker of respondent-landlord. He reported this fact in his report as well, but despite that the Executing Court, believing the statement of dishonest bailiff who was won over by respondent-landlord, ordered for police help, though, there was no

such necessity, inasmuch as, respondent-landlord had already taken possession of the demised shop forcibly and illegally. The Executing Court ought to have framed issues and take the matter to its logical end.

Having given thoughtful consideration to the submissions of learned counsel for the petitioner, this Court finds the instant revision merits dismissal for the reasons to follow:

Admittedly, appeal filed by the petitioner against eviction order Annexure P-13, is pending before Appellate Authority. In case, the same is accepted, then each and everything would be undone, which, allegedly, was done by respondent-landlord illegally and forcibly.

Learned counsel for the petitioner has not been able to show as to why statement on oath of Bailiff-Jaipal, is to be disbelieved, wherein he testified that when he went to deliver the possession of demised shop, pursuant to the claim of respondent, the petitioner obstructed him and shown dis-respect to the Court order.

Filing of this revision by the petitioner is like beating a dead horse, inasmuch as, as per his own stand, possession of the demised shop had already been taken by respondent-landlord.

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

Dismissed.

October 30, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No