

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

CR-14326-2018 (O&M)

Date of Decision: February 28, 2019

Harsh Vijay

Petitioner

Versus

Baljeet Singh

Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Harsh Vijay Jain, Advocate  
-petitioner in person.

Mr. Ashish Pannu, Advocate  
for the respondent-landlord.

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**JAISHREE THAKUR, J. (Oral)**

The instant Civil Revision has been filed under Article 226 of the Constitution of India seeking to challenge the orders of eviction passed by the Additional Civil Judge, Mohali. On 20.12.2018, the petitioner herein had contended that he was ready and willing to hand over the peaceful and vacant possession of the premises as detailed in the petition under Section 13 of the East Punjab Urban Rent Restriction Act filed by the respondent-landlord comprising one room, kitchen, latrine, bathroom at second floor and one store on ground floor.

In brief, the facts are that a petition under Section 13 of East Punjab Urban Rent Restriction Act came to be filed for seeking eviction of the premises comprising one room, kitchen, latrine, bathroom at second floor and one store on the ground floor. The petition was contested and on

appreciation of the evidence, the eviction of the petitioner was ordered by the Rent Controller, SAS Nagar, Mohali by order dated 23.02.2015, which order came to be challenged in an appeal before the Appellate Authority, who vide its order dated 28.05.2015, dismissed his appeal.

The order of the Appellate Authority was challenged before this Court in CR-4127-2015 which came to be dismissed vide order dated 12.07.2017. The SLP preferred also was dismissed. Thereafter the landlord-respondent filed an execution petition seeking possession in which objections were filed by the tenant-petitioner herein. The objections were dismissed by order dated 01.12.2018 by the ACJ (SD) SAS Nagar and said order dated 01.12.2018 has been sought to be challenged in the instant revision petition.

At the time of notice of motion, the petitioner who appeared in person and who is an advocate had submitted that he is ready and willing to hand over the vacant possession of the premises as detailed in the petition filed under East Punjab Urban Rent Restriction Act comprising of one room, kitchen, latrine, bathroom at second floor and one store at the ground floor. At that time it was also submitted that the tin shed in question is not within the premises of House No. LIG 1288-B, Phase X, Mohali which is in the possession of the petitioner herein. It was argued that the said tin shed does not have any concern with the landlord. On the basis of the statement, the dispossession of the petitioner from the tin-shed was stayed till the next date of hearing. The matter was taken up for hearing on 30.01.2019 wherein the petitioner had reiterated that he would hand over the vacant and peaceful possession of the premises as detailed in the petition under Section

13 of East Punjab Urban Rent Restriction Act. On that date, he again reiterated that the tin-shed, which is in his possession was not within the premises comprised in House No. LIG 1288-B, Phase X, Mohali.

Since the dispute arose whether there was a tin-shed in question within the premises as detailed above, a Local Commissioner was appointed to inspect the premises and to bring clarity to the situation. The Local Commissioner was to report on the following points:-

1. Whether there is a tin shed constructed within the premises comprised in House No. LIG 1288-B, Phase X, Mohali,
2. If there is a tin shed, whether it is part of House No. LIG 1288-B, Phase X, Mohali.

Ms. Janya Sirohi, Advocate was appointed as Local Commissioner to inspect the premises and make a detailed site-plan of the tin-shed in question. The order was passed in the presence of both the parties and it was agreed that the Local Commissioner would inspect the premises on 03.02.2019 at 3.00 O' clock and both parties were given liberty to associate themselves with the inspection. The fee of the Local commissioner had been fixed by this court @ ₹11,000/- to be paid at the spot equally by both the parties.

Thereafter, the Local Commissioner inspected the premises and also submitted her report. While submitting the report, the Local Commissioner apprised the Court, that she has received only part payment of her fee and that too by the respondent herein.

I have heard learned counsel for the parties and have also perused the pleadings as raised in this revision petition. The impugned order

dismissing the objection petition was challenged on a very limited ground as stated that the landlord would only be entitled to the possession of the premises that had been described in the headnote and not to the tin-shed which is in his occupation. A report of the Local Commissioner would reflect that no tin-shed is existed in the suit property and to substantiate this finding, photographs have been attached of the first floor. In view of the report submitted by the Local Commissioner, the stand of the petitioner stands belied that he has possession of a tin-shed which is not part of the premises and which does not comprise the part of the premises in House No. LIG-1288-B, Phase X, Mohali. The petitioner, who is present in the Court has made a statement that he has handed over the vacant and peaceful possession of the premises as stated in the petition, however, learned counsel for the respondent submits that the Executing Court had already issued warrants of possession after breaking the locks of the said house.

In such a situation, it is hard for this Court to rely upon the statement of the petitioner herein who states that possession has been handed over on 30.01.2019 while also taking note of the fact that the fee of the Local Commissioner has also not been paid till date.

Finding no merit in the instant petition, the same is hereby dismissed.

**February 28, 2019**

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**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes  
Yes/No