

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

**CR-7420-2019 (O&M)
Date of Decision : 21.11.2019**

Jaswant Singh

..... Appellant

Versus

Manju Bala

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Surinder Garg, Advocate
for the petitioner.

RAMENDRA JAIN, J. (Oral)

Through this appeal, prayer has been made for setting aside order dated 05.11.2019, whereby Executing Court, dismissing application of the appellant for stay of execution proceedings till the decision of his application under Order 9 Rule 13 CPC, issued warrant of possession with permission to break open the lock of the demised house.

Perusal of file shows that in the application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Act') for eviction of appellant from the demised house, detailed in the judgment dated 01.10.2018, notice was duly served upon the appellant. However, appellant chose not to contest the said eviction application. Thus, he was proceeded against ex parte. Learned Rent Controller, vide order dated 01.10.2018, after holding ex parte trial, ordered eviction of the appellant from the demised house.

Appellant moved an application under Order 9 Rule 13 CPC for setting aside aforesaid eviction order dated 01.10.2018 against him. He further moved a separate application for stay of execution proceedings filed by respondent-landlady till the decision of his aforesaid application under

Order 9 Rule 13 CPC. The said application for stay was taken up for hearing on 05.11.2019. Appellant and his counsel absented on that date. Thus, executing court, finding no option, dismissed his aforesaid application for want of prosecution vide impugned order dated 05.11.2019.

Learned counsel for the appellant contends that Executing Court did not appreciate that till the decision of his application under Order 9 Rule 13 CPC, execution proceedings filed by respondent-landlady could not have continued.

Having given thoughtful consideration, this court is of the considered view that appellant tried his level best to delay his eviction, gaining time by deliberately and intentionally remaining absent repeatedly. Thus, there is no merit in this revision petition.

However, in the interest of justice, the appeal is allowed and the order dated 05.11.2019 is set aside, subject to payment of Rs.40,000/- as costs and also entire arrears of rent to the respondent-landlady on the first date of hearing. The appellant is directed to appear before the Executing Court on 11.12.2019.

Meanwhile, execution proceedings shall remain stayed.

In case, appellant does not comply with this order, the Executing Court shall continue with the execution proceedings against the appellant.

21.11.2019
mamta

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No