

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Revision No. 7542 of 2019(O&M)

Date of Decision: December 02 , 2019.

Rimpy Bawa

..... PETITIONER

Versus

Gurdev Singh and others

..... RESPONDENT

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Narinder Singh Dadwal, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Petitioner is aggrieved of order dated 04.04.2018 passed by the learned Rent Controller, Chandigarh as well as decision dated 28.08.2019 passed by the learned Appellate Authority, Chandigarh upholding the said order.

Brief facts necessary for the adjudication of the case are that, a petition under Section 13B of the East Punjab Urban Rent Restriction Act, 1949 was filed by respondent No.1 alongwith his brother Mohan Singh seeking ejectment of the tenant-Gopal Krishan Manik (brother of the present petitioner) from the premises, in question, on the ground that the landlords are Non Resident Indians and they require the building for their own personal use and occupation.

Gopal Krishan Manik filed an application for leave to defend, which was however declined on 22.01.2016 and his ejectment was ordered. A revision petition was filed by Gopal Krishan Manik before this Court, which was dismissed and his ejectment was upheld right upto the Hon'ble Supreme Court of India. Execution of the ejectment order was sought by respondent No.1 and his brother. Objections were filed by the present petitioner in the said execution petition to the effect that she is daughter of Joginder Mohan Manik i.e., the original tenant to whom the tenanted premises was let out way back in the year 1974. Joginder Mohan Manik is claimed to have died on 01.04.2001 leaving behind his wife Rama Manik, son Gopal Krishan Manik and four daughters, all married (including the present petitioner). Wife of Joginder Mohan Manik, Rama Manik died on 12.02.2008 leaving behind his son and four daughters. The present petitioner is claimed to be a co-tenant of the demised premises, the tenancy in question being inheritable. It is alleged that Gopal Krishan Manik was a habitual drunkard and incapable of rational thinking. He had to be taken for treatment to various hospitals and remained on medication for many years. The rent petition was claimed to have been filed by the landlords without impleading the objector and other co-tenants being proper and necessary parties in order to play a fraud upon them. It is also stated that Gopal Krishan Manik had, in fact, connived with the landlords and had even received some consideration from them, therefore, he did not pursue the matter properly. Respondent-landlords opposed the said objections while submitting that the said objection petition is merely a tactic being employed by the petitioner to delay the execution proceedings as they stood finalized upto the Hon'ble Supreme Court.

Learned Rent Controller, Chandigarh vide order dated 04.04.2018 dismissed the objection petition filed by the petitioner. Appeal against the said order was also dismissed by the learned Appellate Authority, Chandigarh vide impugned decision dated 28.08.2019. Aggrieved therefrom, the present revision petition has been filed.

Learned counsel for the petitioner argues that both the learned courts below have grossly erred in dismissing the objections preferred by the present petitioner. Gopal Krishan Manik, it is reiterated, was a habitual drunkard incapable of rational thought and he arrived at some understanding with respondent No.1 for getting the tenanted premises vacated at the back of the petitioner-objector and other co-tenants. It is further argued that Gopal Krishan Manik himself passed away on 09.12.2017 leaving behind his widow and daughter. The petitioner being a co-tenant is entitled to file the objections which should have been decided by taking recourse to provisions of Order 21 Rules 97 to 103 CPC. It is thus prayed that this petition be allowed, both the impugned decisions be set aside and the objections filed by the present petitioner be decided in accordance with law.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

Learned counsel for the petitioner does not deny that ejectment of Gopal Krishan Manik ordered by the learned Rent Controller on 22.01.2016 has attained finality. It is further not in dispute that an application under Order 1 Rule 10 CPC moved by one Vikram Singh seeking his impleadment on the ground that he was married to a daughter of Joginder Mohan Manik, was

dismissed. There is indeed no evidence on record to indicate that any of the legal heirs of Joginder Mohan Manik or Rama Manik, other than their son Gopal Krishan Manik, was in occupation of the tenanted premises. It is rightly observed by the learned Appellate Authority that the objections filed by the petitioner at this stage, when it became imminent and clear that their brother having lost the case right upto the Hon'ble Supreme Court, possession of the demised premises would be taken by the landlords in the execution proceedings, the present objections were, thus, filed in a malafide manner to stall the execution. The contention that there was collusion between Gopal Krishan Manik and the landlords has been concurrently found to be incorrect after proper appreciation of the matter. It is rightly observed by the learned Appellate Authority that the collusion clearly appears to be the other way around i.e., between the objector and Gopal Krishan Manik, who now after his death, is represented by his widow and child. It is a well settled position that each and every objection raised by the objector is not to be put to trial merely on the asking, unless the material adduced convinces the court that the objections actually require determination on the strength of evidence. Reliance has been correctly placed by the learned Appellate Authority on the judgments of the Hon'ble Supreme Court mentioned in impugned order dated 28.08.2019.

Learned counsel for the petitioner is unable to point out any illegality, perversity or error of law apparent on the face of it in the findings returned by both the learned courts below.

No other argument has been raised.

Keeping in view the facts and circumstances as above, I do not find

any ground to interfere in the impugned orders dated 04.04.2018 and 28.08.2019 passed by the learned Rent Controller, Chandigarh and the learned Appellate Authority, Chandigarh, respectively, in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to costs.

December 02 , 2019.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No