

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.8045 of 2019 (O&M)  
Date of Decision : 13.12.2019

**Meena and others**

**.....Petitioners**

**Versus**

**Ashok Kumar**

**..... Respondent**

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Anupam Bhardwaj, Advocate for the petitioners.

**ARUN PALLI, J. (Oral)**

The petitioners are the tenants and are aggrieved by an order dated 22.11.2019, vide which the objections filed by them have since been dismissed by the executing Court.

Concededly, an ex parte order of eviction dated 07.05.2015, was passed against the petitioners by the Rent Controller, Batala. It is not disputed either that petitioners had moved an application dated 01.07.2015, under Order 9 Rule 13 of the CPC for setting aside the ex parte order of eviction. An application to stay the execution proceedings was also moved therewith. Those applications remained pending for almost three years but were eventually dismissed for non-prosecution on 05.02.2018. Whereafter, the petitioners even moved an application (Annexure P-5) for restoration of their application under Order 9 Rule 13 of CPC, which concededly, is pending consideration. Subsequently, the petitioners also filed objections before the executing Court praying for stay of execution proceedings, as in

the meanwhile warrants of possession were issued, which have since been dismissed vide impugned order:-

**“Vide the present application, JD prays for staying the execution application on the ground that they had engaged a counsel to pursue the application under Order 9 Rule 13 CPC filed by her. However, Id. Counsel did not inform the JD regarding dismissal of application under Order 9 Rule 13 CPC in default. In the entire objections, JD has merely leveled allegations against the earlier counsel who was appearing on her behalf in the application under Order 9 rule 13 CPC. Further it does not appeal to the sound mind that JD slept for two years and did not enquire regarding the status of application under Order 9 Rule 13 CPC. When warrants of possession were issued qua the property in dispute, then JD woke up and file the present objections merely to delay the execution proceedings.**

**Thus, in view of the above discussion, it can be concluded that the present objections filed by JDs are groundless to be considered, as such, they are ordered to be dismissed.”**

Ex facie, the objections filed by the petitioners as also the present revision is nothing but an abuse of process. Concededly, the petitioners had moved an application under Order 9 Rule 13 CPC accompanied by an application for stay of execution proceedings as back as on 01.07.2015. However, as indicated above, the said applications were dismissed for non-prosecution on 05.02.2018. It is not disputed either that even now the application moved by the petitioners (Annexure P-5) seeking restoration of those applications is pending. Thus, rather than pursuing the said application they chose to file objections to the execution petition.

Apparently, as for three long years they did not care to pursue their applications under Order 9 Rule 13 and for staying the execution proceedings, which were eventually dismissed for non-prosecution on 05.02.2018. Thus, in the given situation and in the absence of any interim stay as regards execution of the ejectment order the only and the inevitable option before the executing Court was to dismiss the objections filed by the petitioners.

Faced with this and on being pointedly asked, learned counsel for the petitioners could not refer to anything on record to show if the conclusions reached by the executing Court was either contrary to the record or suffered from any material illegality. The revision petition being devoid of merit is accordingly dismissed.

13.12.2019

*Manoj Bhutani***( ARUN PALLI )  
JUDGE**

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |