

CR No.8171 of 2019

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

CR No.8171 of 2019  
Date of decision: 18.12.2019

Deen Dayal

.....Petitioner

versus

Premwati @ Prem and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. Jai Bhagwan, Advocate, and  
Mr. S.K. Rana, Advocate, for the petitioner.

**RAMENDRA JAIN, J. (ORAL)**

Through this revision under Article 227 of the Constitution of India, tenant has laid challenge to order of the trial Court dated 12.09.2019 (Annexure P-2), whereby his application under Section 144 read with Section 151 CPC for restitution of his possession over the demised shop was dismissed.

Briefly, in a suit for permanent and mandatory injunction filed by the petitioner, upon his stay application, respondents were restrained from dis-connecting electricity supply and to dispossess him from the demised shop. However, said suit was dismissed in default on account of non-appearance of the petitioner. His application under Order 9 Rule 13 CPC for setting aside order dismissing his suit, was also dismissed. Resultantly, petitioner approached the lower appellate Court, who vide order dated 02.05.2019 ordered restoration of the suit of the petitioner.

Thereafter, petitioner filed aforesaid application for restitution of his

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possession and restoration of electricity connection, which has been dismissed vide impugned order.

Learned counsel *inter alia* contends that after dismissal of his suit, which has now been restored, respondents illegally and forcibly dispossessed the petitioner from the demised shop. Thus, trial Court failed to appreciate that petitioner was entitled to re-possess the demised shop as a tenant and get restored electricity connection to run his business. Trial Court failed to appreciate that registration of FIR No.585 dated 14.08.2015 under Sections 452, 188, 427, 506, 342, 448, 147, 148 IPC against the respondents by the petitioner falsified the stand of the respondents that petitioner had voluntarily handed over vacant possession of the demised shop to them. Trial Court has illegally dismissed petitioner's application on the ground of delay and laches, ignoring the fact that after restoration of suit by the lower appellate Court, petitioner without any delay, had moved application for restitution of his possession and re-connection of electricity supply.

Having given thoughtful consideration to the above submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

Inter se disputed question between the parties is as to whether petitioner voluntarily handed over vacant possession of the demised shop to the respondents or he was forcibly evicted from the same. This controversy can only be decided after holding full-fledged trial. Thus, during the pendency of the suit of petitioner, since, he, as on date, is not in possession of the demised shop, therefore, his possession cannot be ordered to be

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restored without deciding above controversy.

This Court, while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmity in the order of the trial Court.

Dismissed.

**(Ramendra Jain)**  
**Judge**

**December 18, 2019**

R.S.

Whether speaking/reasoned      Yes/No

Whether reportable                Yes/No