

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

118

CR-521-2020

DATE OF DECISION: 28.01.2020

DAVINDER PAL SINGH

... **Petitioner(s)**

Versus

MEENA SHARMA AND OTHERS

... **Respondent(s)**

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Aayush Gupta, Advocate for the petitioner(s).

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 20.12.2019 (Annexure P-7), whereby his application for recalling the warrant of possession and staying the execution proceedings, has been dismissed.

Learned counsel for the petitioner contends that the petitioner was not a party in the rent petition and, therefore, the judgment could not be executed against him. He also contends that the respondent, despite her pleadings that she wants to permanently settle in India after passing of the decree, has not returned to India and, therefore, her petition was not *bona fide*. Lastly, he has contended that the ejectment petition and other proceedings were carried out purportedly at the behest of respondent through her power of attorney namely Sh. Shashi Kumar Bedi, who was her husband but after the divorce, he did not have the authority to maintain the execution proceedings and this had not been denied by the respondents.

Heard.

It is manifest from the material on record that the rent petition had been preferred against respondents No.2 and 3. However, an application had been preferred by the petitioner namely Davinder Pal Singh for his impleadment before the Rent Controller. This application had been allowed on 02.03.2010 and the petitioner had been impleaded as a party. The rent petition was allowed by the Rent Controller on 16.12.2014. The execution application had also been preferred against respondents No.2 and 3 wherein the petitioner was not made a party. However, before the executing court as well, the petitioner had filed objections. He had been heard at length and the executing court, by the order dated 17.08.2018, had directed the decree holder to prefer an appropriate application before the Rent Controller for making necessary correction in the head note and in the name of the parties on 16.12.2014. The application was allowed on 15.12.2018 and the name of the petitioner was added in the judgment and decree dated 16.12.2014. Therefore, the petitioner was a party before the Rent Controller and the executing court and had been duly heard in the matter before passing of the impugned order. It is, therefore, not open to him to contend at this stage that he was not a party in the proceedings and the order affecting his rights had been passed in his absence.

I do not find any merit in the contention of the learned counsel that as the respondent landlord had not returned to India after the decree, therefore, the executing court should not have executed the decree. It is well established principle of the civil law that executing

court cannot go beyond the decree and, therefore, it was not open to the executing court to consider the factum as to whether the respondent landlord had returned to India after the decree.

Further the execution had been preferred by respondent No.1 Meena Sharma through her attorney Shashi Kumar Bedi. It has been noticed by the Court below that the petitioner had not submitted any document in support of his objection that Meena Sharma had divorced Shashi Kumar Bedi or Shashi Kumar Bedi was not duly divorced by her to prosecute the execution petition.

Consequently, I do not find any merit in this petition which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

28.01.2020.

SwarnjitS

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