

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

Sr. No.124

**CWP-2741-2020 (O&M)
Date of decision : 3.2.2020**

Deepak Kumar

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Manoj Vashishtha, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is allegedly the tenant of two shops under the Nagar Panchayat Khamano-respondent No.4. In the year 2014, an application under the Punjab Premises & Land (Eviction & Rent Recovery) Act, 1973, was filed for his eviction from both the shops on the grounds that he has sublet the same and material alterations have been made therein. Both these grounds were stated to be a violation of the rent agreement.

Vide order dated 2.7.2014, the eviction of the petitioner was directed.

Subsequent appeal has also been dismissed vide order dated 30.5.2019 on the ground of limitation.

Learned counsel for the petitioner submits that on receipt of notice of eviction petition, a written reply had been submitted. Thereafter, on account of some mis-communication with the lawyer, the petitioner was proceeded against ex parte in the year 2014 and eviction order dated 22.7.2014 was passed in his absence. He could not lead evidence in the case, although, his stand in written statement is that there was no subletting. The petitioner had shifted to property dealing and the shop had been taken by him for running the mobile business, for which purpose, he had employed respondent No.5 and thus, there

proceeded against ex parte only when execution of the eviction order was sought in the year 2018. The petitioner continued to pay rent till January, 2020 and respondent No.4 continued to accept the same. Thus, the order dated 30.5.2018, dismissing his appeal on the ground of limitation is illegal and may be set aside. The petitioner be granted an opportunity to lead evidence in support of his claim that the shop has not been sublet.

With the assistance of learned counsel for the petitioner, I have gone through the written statement filed by the petitioner before the Collector. In para No.2 thereof, it has been averred as follows:-

‘In the shop No.2 had employed respondent No.2 by respondent No.1 upon income basis and respondent No.2 is sitting in the shop No.2 being an employee of respondent No.1, whereas, Sohan Lal being a neighbour of respondent No.1 has been wrongly arrayed as a party in other suit, although Sohan Lal is running his business of sweet shop adjoining to the shop No.1 under the possession of respondent No.1.’

A perusal of the written statement shows that the possession of shop No.2 had been handed over to respondent No.5 upon income sharing basis. Thus, it is evident that respondent No.5 is not an employee. He is sharing the profit of the business. The written statement itself is against the case of the petitioner that shop has not been sublet.

Moreover, there is nothing on record to show that the petitioner could not appear before the Collector on account of mis-communication with his lawyer and that he acquired knowledge of the eviction order in the year 2018. Any prudent litigant would not have sat over the matter for four years and would have surely got in touch with his lawyer, even if there was no

communication from his side, within a reasonable time. Thus, the appellate authority was justified in dismissing the appeal on the ground of limitation.

There is no merit in the writ petition and the same is dismissed.

(SUDHIR MITTAL)
JUDGE

3.2.2020
Ramandeep Singh

Whether speaking / reasoned	Yes / No
Whether Reportable	Yes/ No