

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

**Civil Revision No.980 of 2022 (O&M)
Date of Decision: 19-04-2022.**

Jai Pal Kamia

...Revisionist-Petitioner

Versus

Main Pal & Another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. G.S. Brar, Advocate,
for the revisionist-petitioner.

Mr. Satbir Singh Katnoria, Advocate
for the respondents-Caveators-landlords.

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MEENAKSHI I. MEHTA, J.

By way of this revision petition, the petitioner (for short 'the tenant') has laid challenge to the order dated 05.03.2020 (Annexure P-13) passed by the Civil Judge (Junior Division) Chandigarh (for short 'the Executing Court'), qua the dismissal of his Objection petition (Annexure P-8) and has also assailed the judgment dated 08.03.2022 (Annexure P-15) handed down by the Additional District Judge, Chandigarh (for short 'the Appellate Court') whereby the Appeal preferred by him (tenant) against the order Annexure P-13, has also been dismissed.

Bereft of unnecessary details, the facts, culminating in the filing of the present petition, are that the respondents (for short 'the landlords') filed a petition against the tenant under Section 13 of the East

Punjab Urban Rent Restriction Act, 1949 for seeking his eviction from the shop on the ground floor and one room on the first floor of the property, as detailed in the head-note thereof (for short 'the demised premises') on the grounds of non-payment of the arrears of rent as well as personal necessity and during its pendency, the parties arrived at an amicable settlement of their dispute and in pursuance thereof, the said petition was allowed vide the order dated 20.04.2017 (Annexure P-5) directing the tenant to vacate the demised premises on or before 28.02.2019 but he did not comply with the said order and therefore, the landlords preferred the Execution Petition (Annexure P-7) for seeking the possession of the said premises.

However, the tenant filed the Objection petition in the said execution proceedings while averring that landlord Mainpal had sworn an affidavit (Annexure P-4) on 21.02.2017 deposing therein regarding the payment of Rs.25 lac to him (tenant) by way of two post-dated cheques of Rs.10 lac and Rs.15 lac but the cheque worth Rs.10 lac was dishonoured and then, the afore-named landlord entered into a fresh settlement with him and executed a compromise-deed (Annexure P-6) agreeing therein that he (landlord) would execute the Sale Deed qua his share in the demised premises in his (tenant's) favour, in lieu of the payment of the said amount of Rs.25 lac but thereafter, the landlords filed the Execution Petition. Vide the impugned order, the Executing Court dismissed the Objection Petition and the Appeal filed by the tenant against the said order has also been dismissed vide the impugned judgment.

I have heard learned counsel for the petitioner-tenant as well

as learned counsel for the respondents-caveators-landlords in this petition and have also perused the file carefully.

Learned counsel for the petitioner-tenant has contended that affidavit Annexure P-4 was sworn by the said landlord qua the payment of Rs.25 lac to the tenant but the cheque worth Rs.10 lac, as issued in pursuance thereof, was dishonoured and thereafter, the parties arrived at an amicable settlement and executed the compromise deed Annexure P-6 whereby the landlord was required to execute the Sale Deed in favour of the tenant in respect of his share in the demised premises but the landlords, in utter violation of this settlement, filed the Execution Petition wherein the Objection petition filed by the tenant has been wrongly dismissed vide the impugned order without first deciding the application (Annexure P-11) as moved by him for engaging the handwriting expert for the comparison/verification of the signatures of the above-named landlord on the compromise deed and other relevant documents and the Appeal preferred against the said order has also been erroneously dismissed vide the impugned judgment. He has further contended that the factum of the said compromise deed having been executed between the parties, was required to be taken into consideration by the Executing Court in view of Section 47 of the Civil Procedure Code (for short 'the CPC') which provides that all the issues arising between the parties in respect of the execution, discharge or satisfaction of the decree, would be determined by the Court executing the decree and in these circumstances, the impugned order as well as the judgment are not legally sustainable and are liable to be set aside. He has

placed reliance upon the observations made by the Apex Court in **“Tanzeem-e-Sufia vs. Bibi Haliman and Others AIR 2002 Supreme Court 3083**, in support of his contentions.

Per-contra, learned counsel for the respondents-Caveators-landlords has argued that the above-mentioned affidavit and compromise deed are forged and fabricated documents and the same were never sworn/executed by the said landlord and even otherwise, the compromise, as claimed to have been arrived at between the parties, is an event subsequent to the passing of the eviction order (Annexure P-5) and therefore, the genuineness and veracity of the same cannot be looked into and adjudicated upon by the Executing Court and the same is not covered under the provisions of Section 47 of the CPC and it being so, the impugned order as well as the judgment are perfectly legal.

I do not find any merit in the contentions as raised by learned counsel for the petitioner-tenant because affidavit Annexure P-4 is shown to have been sworn on 21.02.2017 whereas a perusal of the copies of the statements of the tenant and landlord-Main Pal (made on his own behalf as well as on behalf of landlord-Ram Pal), as submitted by learned counsel for the landlords in the Court, shows that the same were recorded by the Rent Controller on 02.03.2017, i.e after the alleged attestation of the said affidavit but strangely, there is not even a whisper about this affidavit in these statements. The tenant has not advanced any cogent and plausible explanation for this omission on his part. Even otherwise, as per para No.3 of this affidavit, the above-said Eviction Petition was to be withdrawn by

the landlord on that very day, i.e on 21.02.2017 itself but as discussed earlier, the same was, rather, allowed on 20.04.2017 vide order Annexure P-5 in view of the statements of the parties as recorded on 02.03.2017 and had, thus, not been withdrawn in terms of the afore-discussed depositions as contained in the said affidavit. The tenant has also not come forward with any fair, candid and justifiable reason as to why he had not pressed for the compliance of the terms and conditions of the alleged settlement, as detailed in the affidavit and rather, preferred to make a statement for allowing the said Eviction Petition against him. These facts cast a shadow of doubt on the version of the tenant qua the said affidavit.

So far as the execution of compromise deed Annexure P-6 is concerned, it bears the date 02.03.2019, meaning thereby that it was allegedly executed after the eviction order (Annexure P-5) was passed on 20.04.2017. The above-named landlord, in his reply (Annexure P-12) to the Objection Petition, has specifically denied the execution of this compromise-deed. Though Section 47 of the CPC provides for the determination of the questions pertaining to execution, discharge or satisfaction of the decree by the Executing Court but it is also well-settled that the Executing Court cannot go beyond the scope of the decree and it being so, the dispute regarding the execution, genuineness and truthfulness of the said compromise deed (Annexure P-6), as claimed to have been executed subsequent to the passing of eviction order Annexure P-5, can, by no stretch of imagination, be construed to be the matter falling within the four corners of the said provisions.

The plea regarding the pendency of the said application, as moved by the tenant-Objector for engaging the handwriting expert, also does not hold much water because as discussed above, the Executing Court cannot travel beyond the scope of the decree and therefore, it would not be within the domain of the Executing Court to allow the tenant-judgment debtor to engage any such expert for the comparison of the signatures of the landlord on the compromise deed (Annexure P-6) and other documents so as to look into and decide the controversy between the parties qua the same and it being so, the plea regarding the pendency of the said application at the time of the dismissal of the Objection petition filed by the tenant, pales into insignificance.

The observations, as made by the Apex Court in **Tanzeem-e-Sufia (supra)** are of no avail to the tenant because the facts and circumstances of the afore-cited case are distinguishable from those of the present one as in the above-said case, the appellant was a third party who claimed independent right to the property in question and the petition moved by the decree-holder for the issuance of the writ for delivery of possession was construed to be an application under Order 21 Rule 97 CPC and it was observed that the appellant was entitled to be heard before passing any order on the said petition/application moved by the decree-holder whereas in the instant case, the objector is none other than the tenant himself who has been a party to the litigation right from the very beginning, i.e since the filing of the said eviction petition and has been heard before passing the impugned order and the judgment as well.

As a sequel to the fore-going discussion, it follows that the impugned order and the judgment do not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

19th April, 2022.
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>