

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

134

CR-2059-2022

Decided on : 23.05.2022

Ram Parkash Singh

... Petitioner(s)

Versus

Harinder Singh

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Surjit Singh Swaich, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J.

The instant revision petition has been filed under Article 227 of the Constitution of India, for setting aside of the order dated 18.05.2022 (Annexure P-9), vide which the objections of the petitioner/judgment debtor have been dismissed and order dated 18.05.2022 (Annexure P-10), vide which the warrants of possession of the premises in dispute, have been issued by giving directions to the bailiff to remove/break open the lock of two rooms and thereafter, put the respondent/decree-holder in possession of the aforementioned premises.

Learned counsel for the petitioner *inter alia* contends that the executing Court fell into error while passing the impugned order by ignoring that the judgment and decree passed by the Rent Controller on 15.02.2019, was completely silent about the description of the demised premises. Hence, the decree being null & void and un-executable, no warrants of possession could have been issued by the executing Court. He further submits that the executing Court clearly exceeded its jurisdiction by relying upon the site plan, annexed by the respondent (landlord)/decree-

holder along with the rent petition for identification of the demised premises, even though, it was not exhibited. Learned counsel thus submits that a document, which was not admitted in evidence, could not have been relied upon by the executing Court for any purpose including for the purpose of identification of the suit property. He also submits that on account of the day-to-day hearings of the execution proceedings, conducted by the executing Court, a grave prejudice had been caused to him.

I have heard learned counsel for the petitioner and perused the relevant material on record.

It would be relevant to notice here that the petitioner was proceeded against *ex-parte* by the Rent Controller. Thereafter, the petitioner preferred an appeal against the *ex-parte* judgment and decree dated 15.02.2019, passed by the Rent Controller. The Appellate Authority then remanded the matter back to the Rent Controller vide judgment and order dated 02.03.2020, after framing the following two issues:-

1. *Whether only demised premises (two rooms) were rented out by the landlord to the tenant as claimed? OPA*
2. *Whether entire school building was rented out by the landlord to the tenant? OPR.*

The matter was remanded back to the Rent Controller by the Appellate Authority, subject to the petitioner clearing rent in the sum of Rs.7,58,060/- to the respondent (landlord) within a period of two months from the date of such order, which was a condition precedent. The petitioner concededly did not comply with the condition imposed by the Appellate Court and hence, the original eviction order passed by the Rent Controller on 15.02.2019, attained finality.

It was in the aforementioned background, that the respondent (landlord) filed an execution petition before the executing Court. The petitioner filed an application for framing of additional issues and objection to the execution petition on the ground that the decree passed by the Rent Controller was un-executable, as it did not give any description with respect to the demised premises. It was also alleged that no such property, as described in the rent petition was in existence. A reply to the objections of the petitioner were filed by the respondent (landlord) and thereafter, the case was fixed for arguments on 19.04.2022. However, it transpires from the zimni orders of the executing Court, that instead of addressing arguments on the said date, an application was filed by the petitioner for amendment of objections. The respondent (landlord) gave his no objection to the said application for amendment of objections and further gave a statement that his reply to the original objections be treated as his reply to the amended objections. Thereafter, the case was fixed for arguments in the post lunch session, however, yet again a request was made by the petitioner for adjournment. The case was then adjourned to the next date i.e. 20.04.2022, vide order dated 19.04.2022 (Annexure P-7) and it was clarified that no further adjournments would be granted for addressing arguments on objections. However, on the adjourned date of hearing i.e. 20.04.2022, there was no representation on behalf of the petitioner, as a result of which, the impugned order (Annexure P-9) was passed.

This Court has no hesitation in observing that it is discernible from the conduct of the petitioner that he had been engaging in delay tactics to prevent the execution of the decree on one pretext or the other.

Still further, the contention of the learned counsel that the

eviction order did not contain the description of the demised premises, is bereft of any merit. It is a matter of record that a site plan had been annexed by the respondent (landlord) with the rent petition, wherein, two rooms were shown as 'ABCD'. Furthermore, no objections *qua* non-specification of the boundaries, sites, length and breadth were taken by the petitioner while filing his written statement. Rather, the petitioner in his reply had only disputed that he had not taken just the specified portion as shown in the site plan on rent, but had taken the entire school building on rent. Hence, at this stage, the objection raised by the petitioner *qua* the description of the demised premises not being there is just another desperate attempt on his part to plug the hole in his otherwise sinking ship.

A perusal of the impugned order also does reveals that the bailiff in his report dated 04.04.2022, neither expressed his inability to identify the suit property as per the site plan, annexed with the rent petition, nor reported that the two rooms were non-existent as alleged by the petitioner in his objections.

In the facts and circumstances, as enumerated hereinabove, this Court is not inclined to invoke its revisional jurisdiction to accept the instant petition and thus, deprive the respondent/decreed-holder from enjoying the fruits of the decree.

The instant revision petition being devoid of merits, is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

May 23, 2022

J.Ram

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