

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

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CR No. 3133 of 2022 (O&M)

Date of decision: 08.08.2022

M/s Valentino

...Petitioner

Versus

Jagdish Arora and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amit Dhawan, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the impugned order dated 16.07.2022, passed by the Civil Judge (Jr. Divn.), Jalandhar in Execution No. 298/2022 dated 02.03.2022, titled as Jagdish Arora vs. Ranbir Singh, vide which the objections filed by the petitioner has been dismissed.

A perusal of the order dated 16.11.2021 (Annexure P-2), vide which the eviction was passed against the petitioner, reads as under:

“The learned counsel for the applicant submits that today the case was fixed for tendering the rent by the tenant/respondent in order to do the compliance of order dated 10.08.2021, in which this court passed a speaking order and directed the respondent to tender the arrears of rent from 01.02.2018 to 31.12.2019 @ Rs.1,04,117/- per month and from 01.01.2020 to till date @ Rs.1,17,131/- per month along with interest Rs.2,54,955/-, Property Tax for the year 2016- 2017 (As per clause 8 of the rent

agreement) Rs.3,46,514/- and cost of Rs.1000/-. Today the respondent has failed to do the compliance of the order dated 10.08.2021 passed by this court and failed to tender the arrears of rent as assessed by this court. Hence, the present ejectment petition may kindly be allowed and an eviction order may kindly be passed against the respondent. Perusal of the case file shows that vide order dated 10.08.2021 the rent was assessed and the case was fixed for today for tendering the rent. Case called several times since morning through out the day but the respondent failed to tender the rent. As per law laid down by Hon'ble Supreme Court of India in case titled **Rakesh Wadhawan and other Vs. M/s Jagdamba Industrial Corporation & Others AIR 2002 SC 204** the date which immediately falls after the date on which the provisional rent is assessed is the first date of hearing. If the tenant fails to tender provisional rent as assessed by the court on the first date of hearing then court is left with no other option except to pass an eviction order against the tenant forthwith. Today the case was fixed for tendering provisional rent by respondent, but provisional rent is not paid by the respondent. Hence, eviction order is passed forthwith in favour of petitioner and against respondent and the respondent is hereby ordered to vacate the possession of the demised premises within a period of three months from the date of this order. Failing which the petitioner shall be at liberty to get the possession of the same as per the provisions of law. File be
consigned to record room."

On the face of it, the petitioner never contested the suit, which was filed against Ranbir Singh and never raised any objection to the tenancy in the name of Ranbir Singh and rather, in the name of firm M/s Valentino

through its partner Satpal Singh.

At the very outset, on a Court query, learned counsel for the petitioner could not dispute that Ranbir Singh is also a partner of M/s Valentino. On another Court query whether any application is filed by the petitioner for setting aside the ex-parte order of eviction dated 16.11.2021, learned counsel for the petitioner submits that he has no instructions to submit that any application was filed, wherein an objection was raised that instead of Ranbir Singh, it is the firm, which is tenant as per rent agreement.

The trial Court, while dismissing the objection filed by the petitioner, has rightly held that the scope of the review in execution petition is limited to execute the ejectment order dated 16.11.2021 and it cannot go beyond the scope of the same and cannot re-appreciate the fact whether Ranbir Singh was the tenant or M/s Valentino.

Accordingly, finding no merit in the present petition, the same is dismissed.

08.08.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No