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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA-1558-2022
DATE OF ORDER: 16.12.2022

Sarabjit Kaur

.....Petitioner

Vs.

Piara Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. N.S. Sodhi, Advocate for the petitioner.

Nidhi Gupta, J.

By way of present Transfer Application, the petitioner is seeking withdrawal of proceedings of Execution Application No.6 of 2020 titled as "Sarbjit Kaur Vs. Piara Singh" from the Court of learned Civil Judge (Junior Division), Nakodar, District Jalandhar and entrusting the same to any other Court of competent jurisdiction at Jalandhar.

The only submission made on behalf of the learned counsel for the petitioner is that "the execution proceedings are prima facie illegal and vitiated as the given site plan is not tallying with the spot structure and dimension as well as location of the house".

A few undisputed facts which need to be noticed herein are that the petitioner had taken the house in dispute on rent from the respondent-owner in the year 2010 at the rate of Rs.2,000/- per month. As the petitioner was not paying the rent regularly, accordingly, the respondent

filed an ejectment application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 which was allowed in favour of the respondent vide ex parte judgment and decree dated 08.03.2017. A perusal of the said judgment and decree (Annexure P2) shows that the petitioner had repeatedly failed to be present for the proceedings before the learned Rent Controller, Nakodar and accordingly, he was proceeded against ex parte. Thereafter, the appeal preferred by the petitioner against the aforesaid judgment and decree dated 08.03.2017 was dismissed by the learned Appellate Court vide order dated 12.07.2019. Accordingly, the respondent/decreed holder sought execution of the decree dated 08.03.2017 under Order 21 Rule 11 CPC. Objections filed by the petitioner in the execution proceedings were dismissed by the learned Executing Court. During these execution proceedings, the petitioner filed an application before the learned District Judge, Jalandhar seeking transfer of the instant execution proceedings from the Court of Civil Judge (Junior Division), Nakodar to Civil Courts at Jalandhar on the ground that the said Court had not heard the petitioner properly nor considered the objections filed by her. Vide order dated 06.12.2022, learned District Judge, Jalandhar has dismissed this application filed by the petitioner for transfer of execution proceedings; whereupon the present transfer application has been filed.

Learned counsel for the petitioner is unable to controvert the above findings which are borne out from the record of the case to the effect that the appeal filed by the petitioner/judgment debtor against judgment and decree dated 08.03.2017 has been dismissed by the Appellate Court vide order dated 12.07.2019; and that the objections filed by the

petitioner/judgment debtor were also dismissed by the learned Presiding Officer after hearing both the parties. Moreover, prayer in the present application is for seeking transfer/withdrawal of Execution proceedings pending before Id. Civil Judge, (Junior Division), Nakodar. As such, it is not open to this Court to consider the merits of the matter in the present proceeding.

Further, regarding the prayer of the petitioner for transfer/withdrawal of Execution proceedings pending before Id. Civil Judge, (Junior Division), Nakodar as *“the petitioner has not faith on the presiding officer/executing court, that she will get justice ...”*, this Court finds such a prayer most reprehensible, as it is not in the petitioner’s mouth to level such baseless allegations. A perusal of order dated 06.12.2022 shows that the learned District Judge had called for comments of the learned Presiding Officer wherein the allegations levelled by the petitioner were refuted. A finding has also been recorded by the learned District Judge that *“There is nothing on the record to show that the learned Presiding Officer is biased against the applicant”*.

I am in concurrence with the findings of the learned District Judge that the contention of the petitioner is *“totally absurd”*. As noticed above, the petitioner’s appeal against order of eviction by the Rent Controller already stands dismissed and the ground sought to be raised by her before this Court to the effect that the site plan is not tallying with the spot structure and dimension or location of the house, were for the consideration of the learned Rent Controller and the lower Appellate Court.

Accordingly, I find no merit in this Petition and the same is hereby dismissed. No order as to costs.

16.12.2022
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No