

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

121

CR-714-2022

Date of decision: 05.05.2022

Northern India Goods Transport Company (P) Ltd.Petitioner

Versus

Gian Kaur (deceased) through LRs and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ajaivir Singh, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India with a prayer to set aside order dated 24.05.2018 (Annexure P-1) passed by the Appellate Authority, Ambala and order dated 15.07.2016 passed by the Rent Controller, Ambala (Annexure P-2) vide which application filed by the petitioner-tenant under Order 9 Rule 13 CPC for setting aside ex-parte order dated 04.10.1994 was dismissed.

Learned counsel for the petitioner-tenant *inter alia* contends that the respondent-landlord filed an eviction petition on 24.12.1985 bearing Rent Petition No.19-R under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (for short, 'the Act') wherein the petitioner-tenant was ordered to be evicted by the Rent Controller vide order dated 04.11.1993. The said order was impugned by the petitioner-tenant in an appeal before the Appellate Authority and the same was dismissed. Civil Revision No.4697 of 1994 was then preferred by the petitioner-tenant before this Court and vide order dated 06.03.1995, this Court stayed the dispossession of the petitioner-tenant. On 29.09.1995 counsel for the respondent-landlord

stated that they had taken possession of the premises in execution of order dated 04.10.1994 passed in some other petition. Thereafter, the matter was adjourned to 13.11.1995. Learned counsel submits that the petitioner learnt about the ex-parte order only on 13.11.1995 when his counsel was given warrant of possession issued in execution application No.55/94 in Rent Petition No.236/92 by the respondent-landlord's counsel. Learned counsel submits that the petitioner was never served in the aforementioned execution proceedings, therefore, the respondent fraudulently obtained the possession of the demised premises. Hence, a prayer has been made for setting aside the impugned orders vide which the petitioner-tenant was proceeded against ex-parte.

I have heard learned counsel and perused the material on record including the impugned orders.

It is not disputed rather it is a matter of record that not only in rent petition No.236/92 which was decided against the petitioner-tenant vide ex-parte judgment dated 04.10.1994 but in all other litigations pending between the parties including Civil Revision No.4697/94 the address of the petitioner-tenant was the same i.e. 'Naya Bazaar, Delhi'. Still further, submissions made by learned counsel that the petitioner-tenant was unaware about the ex-parte decree having been passed against him and he learnt about the same only on 05.12.1995 is hard to digest. It would be pertinent to notice that in the Petition No.110-R/24.04.1993/24.07.1993 titled as 'Gian Kaur Vs. Northern India Goods' filed under Section 5 of the Act (pending between the petitioner-tenant and the respondent-landlord), the petitioner-tenant was duly represented through his counsel Mr. M.K.

Chauhan, Advocate. A Vakalatnama dated 28.07.1994 signed by one Mr. M.L. Jain, Administrator was also filed in the above-mentioned petition. Subsequently this petition was dismissed as withdrawn by the counsel appearing for the respondent-landlord on 05.04.1995 by making a statement that the possession of the demised premises had been taken over. In the circumstances, the contention of the learned counsel that the petitioner-tenant had no knowledge about the ex-parte order dated 04.10.1994 cannot be believed. Rather, the one and only inference which can be drawn is that the petitioner-tenant was indeed aware about the withdrawal of the petition. Still further, it is a matter of record and is not disputed either that the possession of the demised premises was taken pursuant to execution No.55 of 1994 in the year 1995. It has also not been disputed that after possession of the demised premises had been taken over by the respondent-landlord, the demised premises/building stood demolished. The petitioner-tenant has woken up from his slumber after almost 23 years and sought setting aside of order dated 04.10.1994.

This Court, in the facts and circumstances as discussed above, does not find any cogent much less convincing reason to set aside the impugned orders. Consequently, the instant revision petition stand dismissed in *limine*.

05.05.2022

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No