

²⁴² IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8366-2016 (O&M)
Decided on:-02.08.2023

Narinder Pal and another

....Petitioners...

vs.

Mukesh Kumar and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Sukhpreet Kaur, Advocate for the petitioners.

None for the respondents.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to the order dated 17.10.2016 passed by the Court of learned Civil Judge (Junior Division), Ambala-cum-Executing Court as well as an order dated 21.11.2016 passed by the Court of learned Additional District Judge, Ambala, upholding the order passed by the Executing Court.

2. In the present case, an eviction petition was filed at the instance of respondent No.1 against respondents No.2 and 3 qua the demised shop bearing House Tax No.1726 and 2379 Block No.2, situated at Patel Road, Ambala City, which was allowed by the learned Rent Controller vide order dated 29.11.2011. In pursuance thereof, respondent No.1 filed execution application, wherein, objections were filed by the present petitioners *inter alia* disputing the proceedings regarding handing over of possession in favour of respondent No.1 questioning the identity of the property. The aforesaid objections were dismissed by the learned Civil Judge (Junior Division)-cum-Rent Controller, Ambala, vide order dated 14.10.2015 and

the first appeal filed against the same was also dismissed by the learned Additional District Judge, Ambala, vide order dated 31.05.2016.

3. Impugning the abovementioned two orders dated 17.10.2016 and 21.11.2016, learned counsel for the petitioners submits that in the eviction petition only the property number, besides the boundaries were mentioned but the area of demised premises was never delineated and under the garb of execution, respondent No.1 was trying to occupy the property owned and possessed by the petitioners as well. She further submits that even in the site plan filed before the Executing Court, respondent No.1 did not describe the area of demised premises and thus, the Courts below went wrong while rejecting the objections filed by the petitioners.

4. No one has chosen to appear on behalf of respondent No.1 despite service.

5. I have heard learned counsel for the petitioners and gone through the paper book.

6. Perusal of the eviction petition as well as the eviction order dated 29.11.2011, show that the exact area of demised premises has not been mentioned therein and only the property number i.e. House Tax No.1726 and 2379 Block No.2, situated at Patel Road, Ambala City, besides the following boundaries have been referred:-

*“North: House of Rajiv Kumar
South: Patel Road Ambala City
East: Shop of Krishna Devi
West: Vacant plot of another owner.”*

7. Perusal of record shows that in pursuance to the eviction order passed by the Courts below, the execution proceedings were initiated, wherein, the Executing Court vide order dated 08.08.2015, directed the

decree-holder to furnish fresh site plan, however, on 16.08.2016 without even taking on record the fresh site plan from the side of respondent No.1, the Executing Court in undue haste ordered issuance of warrants of possession, on the basis of the earlier site plan, which was seriously disputed by the petitioners though their objections got dismissed.

8. Considering the aforesaid facts and circumstances of the case, learned Executing Court is directed to call upon respondent No.1/decree-holder to file site plan in furtherance of its previous order dated 08.08.2015 and proceed further with the execution proceedings upon ascertaining its validity after affording opportunity to both the sides.

9. Accordingly, the present petition is disposed of in view of the aforesaid terms. Considering the fact that the execution proceedings are pending for almost 11 years now, the Executing Court is requested to dispose of the same within a period of 04 months from today.

Pending application(s), if any, shall also stand(s) disposed of.

02.08.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No

In the present case, in pursuance to the eviction order passed by the Court below, the execution proceedings were initiated, wherein, the Executing Court vide order dated 08.08.2015, directed the decree-holder to furnish fresh site plan, however, on 16.08.2016 without even taking on record site plan from the side of respondent No.1, the Executing Court in undue haste ordered issuance of warrants of possession, on the basis of earlier site plan, against which, the petitioners filed objections, which were dismissed by the Courts below.

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