

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

**CM-12100-CII-2023 in/and
CR-2281-2023 (O&M)
Decided on:-19.07.2023**

Bahadur Singh

....Petitioner..

vs.

Babu Singh deceased through LR's.

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.K. Verma, Advocate,
for the petitioner.

Mr. Vikas Kumar, Advocate,
for the respondents.

HARKESH MANUJA J. (Oral)

CM-12100-CII-2023

Prayer in this application is for placing on record order dated 28.02.2020 as Annexure P-7, in compliance of order dated 19.05.2023 passed by this Court.

For the reasons mentioned in the application, same is allowed and order dated 28.02.2020 (Annexure P-7), is taken on record.

On the request of learned counsel for the applicant-petitioner, the main petition is taken on board today itself for final disposal.

Main case

1. Challenge in the present revision petition is to the judgment dated 04.03.2023 passed by the court of learned Additional District Judge (Appellate Authority), Sirsa, whereby the appeal filed against the order of eviction dated 08.09.2022 passed by the learned Rent Controller, Sirsa, was

dismissed, thereby upholding the same.

2. The eviction petition was filed by respondent-landlord against the petitioner-tenant *inter alia* on account of arrears of rent/non-payment of rent.

3. Upon appearance of petitioner-tenant before the learned Rent Controller, Sirsa, assessment of provisional rent was made on 28.02.2020, to the tune of Rs.1,56,533/-.

4. The aforesaid order dated 28.02.2020, was challenged before this Court by way of filing CR No.1778 of 2020, wherein, initially on 18.03.2020, this Court stayed the execution proceedings in view of the statement made on behalf of the petitioner-tenant, whereby, he confined his prayer only for grant of reasonable time, so as to vacate the demised premises. The order dated 18.03.2020, is reproduced hereunder for reference:-

“Learned counsel for the petitioner contends that he is confining his prayer in the petition to the grant of reasonable time to the petitioner to vacate the premises as he has to make alternate arrangements.

Issue notice to the respondent limited to extent above returnable on 01.04.2020.

The execution proceedings shall remain stayed till the next date of hearing.”

Later on, this Court vide order dated 01.06.2022, dismissed the aforesaid revision petition by passing the following order:-

“The petitioner is a tenant. The Rent Controller vide order dated 28.02.2020 directed the petitioner to pay the rent of ₹ 1,56,533/- within a period of 15 days, failing which he shall be

liable to be ejected from the demised premises. The petitioner assails its correctness. On 18.03.2020, the following order was passed on the statement of the learned counsel representing the petitioner:-

“Learned counsel for the petitioner contends that he is confining his prayer in the petition to the grant of reasonable time to the petitioner to vacate the premises as he has to make alternate arrangements.

Issue notice to the respondent limited to the extent above returnable on 01.04.2020.

The execution proceedings shall remain stayed till the next date of hearing”.

2. *The learned counsel representing the respondent states that the petitioner has not paid any penny after the order was passed by the Rent Controller.*

3. *Keeping in view the aforesaid facts, there is no ground to interfere with the order passed. In any case, the petitioner has already let more than two years pass, after the order was passed by the Court on 18.03.2020. Hence, the revision petition is dismissed.”*

Since then, the petitioner did not pay even a single penny to the respondent-landlord towards arrears on account of provisional assessment, resulting into passing of the eviction order dated 08.09.2022 by the Rent Controller, Sirsa.

5. Aggrieved thereof, the petitioner-tenant filed the first appeal and the same was also dismissed by the Appellate Authority, Sirsa vide order dated 04.03.2023, again on account of non-deposit of the rent based on the provisional assessment.

6. Impugning the aforementioned two orders dated 08.09.2022 and 04.03.2023 passed by the Authorities below, learned counsel for the petitioner-tenant submits that the respondent-landlord having lost the battle

regarding 9/10 share of the ownership in the suit property before this Court by way of judgment dated 29.08.2014 passed in RSA-2593-2011 against M/s Bharat Tyre Resoling Corporation and its partners from whom the petitioner had purchased the said share by virtue of agreement dated 27.10.2017, was having no right to file the eviction petition and thus, eviction orders were liable to be set-aside.

7. On the other hand, learned counsel for the respondent has supported the judgments passed by the courts below while submitting that the same are absolutely in accordance with the legal proposition of law applicable to the facts and circumstances of the case in hand.

8. I have heard learned counsel for the parties and have gone through the paper book and I am unable to find any substance in the submissions made on behalf of the petitioner-tenant, particularly, under the circumstances when the petitioner has failed to approach this Court with clean hands.

9. On a previous occasion, at the time of impugning the assessment order of provisional rent passed on 28.02.2020 by the Rent Controller, Sirsa, before this Court, in CR No.1778-2020, a clear cut statement was made on behalf of the petitioner-tenant, praying for seeking reasonable time to vacate the premises, so as to make alternate arrangements. Based thereupon, the execution proceedings were ordered to be stayed on 18.03.2020 by this Court, which later came to be dismissed vide order dated 01.06.2022 by this Court. Despite the aforesaid, even after the expiry of more than three years, the petitioner-tenant is still agitating the issue of eviction and that too without even paying a single penny.

10. Once the petitioner-tenant made the statement before this Court for grant of reasonable time and without there being any application for recalling of the same for valid reasons, he cannot be permitted to re-agitate the same issue as regards the eviction order. Moreover, in the entire revision petition, the petitioner-tenant failed to even mention about the orders dated 18.03.2020 and 01.06.2022, passed by this Court in CR-1778-2020 and thus, on the basis of concealment of material facts, made himself dis-entitled to be heard on merits.

11. Moreover, the Courts below have rightly non-suited the petitioners on account of non-deposit of arrears of provisional rent, relying upon the judgment passed by the Hon’ble Supreme Court in case of ***“Rakesh Wadhawan and others vs. M/s Jagdamba Industrial Corporation and others”, 2002 (AIR) Supreme Court, 2004.***

12. Resultantly, the present revision petition is dismissed with cost of Rs.50,000/- to be paid by the petitioner-tenant to the respondent-landlord for having concealed the material facts from this Court.

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

19.07.2023
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(HARKESH MANUJA)
JUDGE

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