

CM-7095-CII-2023 IN/AND
CR-2843-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-7095-CII-2023 IN/AND
CR-2843-2019 (O&M)
Date of decision: April 25, 2023

Vikram Kumar

....Revisionist

versus

Mahesh Chander Jaidka and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Swarn Tiwana, Advocate for applicant-revisionist.

Mr. Namit Gautam, Advocate for respondent.

ARUN MONGA, J. (ORAL)

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For the reasons stated in application, same is allowed. Main case, which was dismissed in default vide order dated 10.04.2023, is restored to its original number and is taken on Board for hearing today itself. Registry to do the needful.

Main case (O&M)

Petition herein is for setting aside impugned order dated 14.01.2019 (Annexure P-13) passed by learned Civil Judge (Junior Division), Ludhiana, whereby application (Annexure P-8) filed by revisionist-judgment debtor for redelivering him the possession of the demised premises, was dismissed.

2. The revision petition is premised on the averments that respondent No.1 herein-landlord filed a petition under the provisions of the Punjab Rent Act for ejectment of revisionist from property in question. Vide order dated 11.05.2017, rent petition was allowed and *ex parte* order of ejectment was passed and three months' time was granted by learned Rent Controller to vacate the suit property.

2.1. Respondent-landlords filed execution application (Annexure P-1) on 16.08.2017. Revisionist-tenant moved an application for setting aside *ex parte* order

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dated 11.05.2017 and also filed an application (Annexure P-8) for redelivery of possession to revisionist.

2.2. Revisionist also filed CRM-M-10639-2018 (Annexure P-11) before this Court, which was disposed of vide order dated 14.03.2018 (Annexure P-12) with an observation that Commissioner of Police, Ludhiana to look into representations dated 27.09.2017 and 09.10.2017 (Annexure P-10 colly.) submitted by revisionist, and if required, to take action in accordance with law. However, no action was taken. Thereafter, revisionist filed COCP-3875-2018. Vide impugned order dated 14.01.2019 (Annexure P-13), application for redelivery of possession to Judgment debtor, was dismissed.

3. I have heard learned counsel for parties and gone through the case file.

4. It transpires that instant revision petition has been filed on merits assailing dismissal of the application of the tenant by learned Courts below declining his prayer to put him back in possession of rented premises. It transpires that prior thereto, revisionist was proceeded *ex parte* in the ejectment petition filed by landlord which led to the passing of ejectment order against him. *Apropos* an application under Order IX Rule 13 of CPC for recalling *ex parte* ejectment order is stated to be still pending.

5. In the premise, present revision petition is disposed of with a request to learned Court below to expeditiously proceed for adjudication on pending application and it is made clear that revisionist shall not be precluded to challenge the order of ejectment on merits, subject of-course to outcome of pending application under Order IX Rule 13 of CPC at subsequent stage on the ground that he had earlier invoked jurisdiction of this Court. Needless to say, either way, revisionist has to seek his remedy *qua* the order passed on application under Order IX Rule 13 of CPC in case same is not favourable to him.

6. Disposed of, accordingly.

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

(ARUN MONGA)
JUDGE

April 25, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No