

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114)

CACP-14-2023

Decided on : 11.08.2023

Sandeep Kumar

.....Appellant(s)

Versus

Krishna Banti @ Krishan Banti

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Akshay Chadha, Advocate for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

The present appeal is directed against the order dated 09.08.2023 passed by learned Single Judge in COCP-2266-2023.

2. Vide the said order the learned Single Judge has come to the conclusion that the appellant herein has committed contempt of court as he did not comply with the undertaking given in **Civil Revision No.846 of 2013** titled as **Sandeep Kumar Vs. Kharaiti Lal** on 21.02.2013. It was noticed that frivolous objections were being filed and also a false affidavit has also been filed in this regard by leveling aspersion against his own Advocate. Resultantly, the contempt petition has been fixed for 17.08.2023 for pronouncement of order on punishment and the appellant has been directed to be present in the Court. The learned Single Judge has been kind enough to grant opportunity to the appellant to purge the contempt by handing over the possession of the shop in dispute to the respondents herein on or before 14.08.2023 by 5:00 PM.

3. We have gone through the paper-book and are in consonance with the observations made by the learned Single Judge. A perusal of the paper-book would go on to show that being a tenant having lost the battle for eviction; firstly before the Rent Controller on 18.10.2011 (Annexure A-12) and thereafter in the appeal on 31.10.2012 (Annexure A-13), the appellant had approached this Court in Civil Revision No.846 of 2013, which was disposed of on 21.02.2013 (Annexure A-14) on his undertaking to vacate.

4. It is pertinent to notice that Kharaiti Lal (deceased) now represented through his legal heirs had filed the petition for eviction on the ground of setting up a business for his son Sanjeev Kumar. The fruits of litigation Kharaiti Lal have never fructified on account of the conduct of the appellant, inspite of the undertaking given before this Court that he would vacate the shop in question within 4 months, wherein an observation was made that he would be hauled up in contempt proceedings, if he does not vacate the shop in question and hand over physical possession to the respondent. The appellant chose not to do the same.

5. It is also pertinent to notice that rather thereafter he had started claiming half share in the shop in dispute, which would be clear from the objections which were filed in execution proceedings, which were dismissed by the Additional Civil Judge (Sr. Div.), Payal on 15.11.2017 (Annexure A-16). The said order was upheld on 20.03.2019 (Annexure A-18) by the Appellate Court and became final. The warrants of possession were issued on 11.01.2023 (Annexure A-20), which were sought to be recalled by filing an application, which was dismissed on 08.02.2023 (Annexure A-21). The said

order was challenged by filing another Civil Revision bearing No.1055 of 2023, wherein an order of status-quo was passed regarding possession.

6. Counsel for the appellant has vehemently argued that having an order of status-quo, the learned Single Judge was not correct in passing the impugned order.

7. We are of the considered opinion that this is a blatant case of violation of an undertaking given before this Court and amounts to gross misuse of legal system which has taken place by retaining the tenanted premises for a decade by raising one bogie or the other and successfully engaging the landlord into prolonged litigation, which has led to him not getting the fruits of the litigation, as now he is represented by his legal heirs including Sanjeev Kumar for whom the shop was sought to be vacated and he himself is now 45 years of age. The scant disregard to the majesty of this Court is apparent on the face of the record.

8. Counsel for the appellant is not in a position to explain as to why the premises were not vacated, once an undertaking was given.

9. In such circumstances, we are of the considered opinion that the order of the learned Single Judge coming to the conclusion that the appellant is guilty of contempt, is passed on the factual aspect, which would require no interference. The order is well reasoned and has also noticed in detail the history of litigation. Persons like the appellant cannot be permitted to play with the judicial system and abuse the same by filing various applications and prolonging agony of the landlord. Rather the learned Single Judge has been kind enough by giving an opportunity to the appellant to purge the contempt and vacate the premises by 14.08.2023 and, thus, kept the matter on a

subsequent date for 17.08.2023 for punishment, in case the shop is not vacated.

10. In such circumstances, we do not find any reason to interfere in the order of the learned Single Judge in appeal. Accordingly, the same is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

11.08.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No