

135-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5205-2023 (O&M)
DECIDED ON: 06.09.2023

SUBHASH @ SUBHASH DAHIYA

.....PETITIONER

VERSUS

THE ROHTAK COOP. MARKETING SOCIETY LTD.

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Sudhir Hooda, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition assails the order dated 25.08.2023 (Annexure P-4) passed by the Additional Civil Judge (Senior Division), Rohtak vide which warrants of possession have been issued with a further direction to the bailiff to break open the locks of the shop in possession of the petitioner. The Station House Officer of the concerned Police Station has also been directed to provide necessary police help.

2. The facts, as emanating from the revision petition, are that the respondent-landlord i.e. The Rohtak Coop. Marketing Society Ltd. instituted an eviction petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as the 'Rent Act') seeking eviction of the petitioner from a shop in Rohtak on the grounds of non-payment of rent and impairment of the value and utility of the shop on account of demolishing of the front portion of the shop and attempts of raising illegal construction etc. The eviction petition was allowed by the Rent Controller, Rohtak on 30.10.2010. An appeal was preferred, which was also dismissed on 08.10.2012. No execution petition was filed till the year 2019. It has been averred in the revision petition that the same was not done on account of intervention of respectable persons of

the Society and considering the fact that the petitioner had no other source of income. The petitioner, under the circumstances, also did not challenge the judgment of the Appellate Authority any further. However, in 2019, an execution petition (Annexure P-1) was filed. During the pendency of the execution petition, objections were preferred by the petitioner in which it was submitted that there were no valid grounds for eviction. The objections were dismissed by the Additional Civil Judge (Senior Division), Rohtak vide order dated 29.07.2023 (Annexure P-2). An appeal is stated to have been filed against the said order which is stated to be pending. In the meantime, the Executing Court, which had issued warrants of possession, issued a direction to the bailiff to break open the locks of the shop and to handover the possession of the shop in question to the decree holder. The Station House Officer of the concerned Police Station was also directed to provide necessary police help. It is against this order dated 25.08.2023 that the present revision petition has been preferred.

3. Learned counsel for the petitioner has submitted that the petitioner is willing to settle the matter with the respondent-landlord and is willing to pay the rent for the shop in question. However, upon a query raised by this Court as to whether any rent had been paid from 2010 till date, the answer is in the negative. Learned counsel made another attempt to convince the Court by stating that appeal against the dismissal of the objection petition is pending. It has been submitted that the impugned order is illegal and arbitrary and is liable to be set aside.

4. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

5. The eviction order was passed by the Rent Controller, Rohtak vide judgment dated 30.10.2010. The appeal was dismissed by the Appellate Authority on 08.10.2012. As per the own case of the petitioner, keeping in view

the fact that the petitioner had no other source of income, no execution petition was filed for a period of seven years thereafter. What terms and conditions were arrived at between the parties is not known since there is no document on record and the only oral version of the petitioner is that the respondent-landlord had not filed the execution petition keeping in view the fact that the petitioner had no other source of income. Eventually, the execution petition was filed in the year 2019. The petitioner then filed an objection petition wherein all grounds on merits were again raised. The objection petition was dismissed on 29.07.2023 and an appeal is stated to be pending against the said order. No stay order has been produced on record. The impugned order shows that warrants of possession had been issued prior to 25.08.2023. On 25.08.2023, the execution petition was fixed for awaiting compliance report from the bailiff. The warrant of the possession was received back unexecuted with a report of the bailiff that the shop was found to be locked. Under the circumstances, the Executing Court passed the impugned order, the details of which have been referred in the preceding paragraphs. I do not find any illegality in the said order at all warranting interference in Revisional jurisdiction. The petitioner has not been able to show any ground on which the impugned order may be liable to be interfered with.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

06.09.2023
Prince Chawla

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