

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

CR-6834-2023 (O&M)
Decided on:-15.11.2023

Bir Bala

....Petitioner..

vs.

Shree Haryana Shekhawati Brahmchari
Ashram Trust, Bhiwani thr. its Secretary
(Mr. Ravikant)

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sankalp Gehlawat, Advocate and
Mr. Sandeep Kaushik, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to an order dated 03.10.2023 passed by the Executing Court, whereby, objections filed at the instance of petitioner-tenant qua the execution of eviction order dated 17.01.2019 have been dismissed.

2. Briefly stating, the respondent-landlord sought eviction of the petitioner-tenant from the premises in question. Having appeared in pursuance to the notice issued by the Rent Controller, the petitioner-tenant did not file any written statement, resultantly, her defence was struck off vide order dated 07.01.2017 followed by an ex-parte order of eviction passed against her on 17.01.2019, on the grounds of subletting and material alteration done in the demised premises.

As per the petitioner-tenant, she having received notice of the execution proceedings, moved an application under Order 9 Rule 13 of CPC,

which finally got dismissed on 03.10.2023 by the Rent Controller. Simultaneously, the petitioner-tenant also filed her objections to the execution petition filed on behalf of respondent-landlord.

Primarily, the objections were pertaining to the explanation of petitioner-tenant for her non-appearance before the Rent Controller. The Executing Court vide order dated 03.10.2023, dismissed the aforesaid objections filed at the instance of petitioner-tenant.

3. Impugning the aforementioned order passed by the Executing Court, learned counsel for the petitioner submits that the non-appearance/non-participation in the proceedings before the Rent Controller, on the part of the petitioner-tenant was neither intentional nor willful, but the same occurred on account of some negligence on the part of her counsel and thus, prayed that the same was liable to be condoned. In support, learned counsel placed reliance upon judgment of Hon'ble the Supreme Court passed in Civil Appeal No.765-2023, titled as ***"Shyam Kumar Gupta and others vs. Shubham Jain"*** as well as judgment passed by Himachal Pradesh High Court in case titled as ***"Pro-Bono Publico Health Care Ltd. And others vs. Reliance Bulk Drugs & Formulations Ltd. and others"***, MANU/HP/0033/2014. No other arguments have been addressed on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

5. In the present case, the reason/cause for non-participation of the petitioner-tenant or her counsel before the Rent Controller in the eviction

petition already stands scrutinized in the proceedings arising out of application under Order 9 Rule 13 of CPC and rejected vide order dated 03.10.2023. Even the judgments cited on behalf of the petitioner-tenant cannot come to her rescue, as sufficient cause for non-appearance/non-participation in the original proceedings can only be raised as a ground in the proceedings arising out of an application under Order 9 Rule 13 of CPC and the same cannot be agitated before or gone into by the Executing Court by way of filing objection petition.

6. Accordingly, finding no illegality or perversity in the order dated 03.10.2023 passed by the Executing Court, the present petition being devoid of merits is thus dismissed.

7. All pending applications stand disposed of.

15.11.2023

sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No