

2023:PHHC:066213

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

**CR-6182-2022 (O&M)
Date of Decision: May 09, 2023**

Satnam Singh

...Petitioner

Versus

Suneet Tayal and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Apanjyot Singh Virk, Advocate
for the petitioner.

Mr.Amit Jhanji, Senior Advocate with
Ms.Priyanka Kansal, Advocate
for respondent No.1-caveator.

ARCHANA PURI, J.

Challenge in the present petition is to the order dated 30.09.2022 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.), on an application for proceeding further with the execution proceedings, in view of the order dated 26.08.2022 passed by this Court. Also, challenge is to the order dated 12.10.2022 (Annexure P-2), vide which, the review application, so filed, vis-a-vis, order dated 30.09.2022 was also dismissed.

The material facts as culled out from the paperbook, which are essential to be noted for the disposal of the present revision petition, are as follows:-

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That Suneet Tayal had filed a petition seeking eviction of the tenant Rajneesh Chauhan from the tenanted premises, on the ground of non-payment of rent. Learned Rent Controller, vide judgment dated 04.04.2018, ordered eviction of tenant Rajneesh Chauhan. However, to challenge the eviction order, an appeal was filed by said Rajneesh Chauhan. During the pendency of the said appeal, Rajneesh Chauhan was granted interim stay, subject to the condition that he shall deposit the arrears of rent w.e.f. **February 2009 till 04.04.2018** and mesne profits, as assessed w.e.f. **04.04.2018, till date**, within a period of two months, from the date of order. The said tenant was also directed to pay mesne profits @ Rs.25,000/- per month.

However, tenant Rajneesh Chauhan filed CR-6311-2018 before this Court, thereby, assailing the aforesaid order. Vide order dated **28.09.2018**, this Court, directed Rajneesh Chauhan (tenant) to regularly deposit a sum of Rs.20,000/- per month. The said order was not complied with and instead, Rajneesh Chauhan, filed Special Leave Petition before the Hon'ble Supreme Court, which was dismissed vide order dated **21.01.2019** while extending the period for deposit of the amount, as per the High Court order. However, instead of complying with the aforesaid order, while not disputing the necessary deposit, not being so made, CR-6311-2018, was withdrawn on **24.05.2019**. Under these circumstances, it becomes evident that there existed no order, thereafter, granting any interim protection to the tenant. He had neither paid the rent, as assessed by learned Rent Controller nor deposited the mesne profits, as directed by the Appellate Authority.

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In this fact situation, landlady Suneet Tayal had filed execution petition. It was in this execution petition, when proceedings were not being conducted, that an application for proceeding further, in the execution was filed, in pursuance of the order dated **26.08.2022** passed by this Court in CR-3434-2022.

CR-3434-2022 was filed by Suneet Tayal, wherein, it was submitted by the decree holder that Executing Court is not proceeding with the matter, in view of the pendency of CR-1393-2020, which is nothing to do with the dispute before the Executing Court.

Considering the same, this Court had disposed of the above-said revision petition vide order dated **26.08.2022**, while giving direction to the petitioner of that case (Suneet Tayal), at first instance, to file an application in this regard and if such application is filed, the Executing Court was directed to decide the case, within a period of one week thereafter. It was only in the given circumstances, the application was filed for proceeding further in the execution petition, in view of the above-said order.

After taking reply and hearing learned counsel for the parties, the impugned order was passed.

At this juncture, it should be noted that proceedings were stalled in the execution petition, when the Executing Court refused to issue warrants of possession of the tenanted premises, on the ground that in the separate litigation between various persons, this Court had ordered the parties to maintain status quo.

It should also be noted that initially, H.S.Ahluwalia was the owner of House No.572, Sector-10D, Chandigarh. He was having wife and three children, namely, Rajinder Ahluwalia (wife), Suneet Tayal (daughter), Navneet Mehta (daughter) and Satnam Singh (son). Various rounds of litigation were initiated by the children of H.S.Ahluwalia, relating to which, matters were/are pending before this Court.

Considering the aforesaid, it is pertinent to note that eviction petition bearing No.2506-2013 was filed by Suneet Tayal against Rajneesh Chauhan and ejectment order was passed on 04.04.2018. However, to challenge the same, an appeal was filed and during the pendency of the appeal against the eviction order, an application under Order 1 Rule 10 CPC was filed by present petitioner Satnam Singh, which was dismissed. To challenge the order of dismissal, the petitioner filed CR-1393-2020, wherein, this Court, while issuing notice of motion, has passed the order to the effect that *‘passing of the final order by learned trial Court shall remain stayed, till the next date of hearing’*.

During the course of arguments, reliance is heavily placed on this pending civil revision petition. However, it should be noted that no order, qua this revision petition, not to proceeding was brought to the notice of the Court below, despite repeated adjournments, as evident from the copies of the zimini orders, so placed, which form the part of the paperbook.

In the light of the same, it is essential to note that to challenge the order of denial of issuance of warrants of possession, the landlady Suneet Tayal had filed CR-4867-2019. The above-said revision petition and

CR-2163-2021 filed by present petitioner Satnam Singh as well as CR-1847-2021 filed by Amandeep Singh, son of the petitioner, were taken up together and present petitioner Satnam Singh was party to the said proceedings and had made appearance through counsel.

In these circumstances, at that material time, when the question of further proceeding with the execution, by way of issuance of warrants of possession was being considered, it was required to bring to the notice of the concerned Court about the pendency of CR-1393-2020, wherein, allegedly, final order was stayed. However, there was total silence, on the part of the present petitioner. It was the very relevant stage to have made the submission vis-a-vis, order passed by this Court in CR-1393-2020.

Thus, considering the submissions made and the right of the landlady, vis-a-vis, tenanted premises, CR-4867-2019 was allowed, whereas, CR Nos.2163 and 1847-2021 were dismissed by this Court, vide order dated **27.10.2021**.

It should be noted that this Court considered the rights of Amandeep Singh, who is son of Satnam Singh and also of Satnam Singh, vis-a-vis, tenanted premises and passed the order dated **27.10.2021**, while observing that order of status quo has been passed in the Regular Second Appeal No.5868-2018 filed by Amandeep Singh and Osheen and that Rajneesh Chauhan (tenant) was not party, in the aforesaid litigation. Considering the same, it was held that Executing Court has erred in refusing to issue to warrants of possession. Even, Amandeep Singh was held to be not entitled to become party in the execution petition, which has arisen from

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the order of eviction, as there is no declaration in his favour, regarding any right, title or interest in any part of the suit property.

In fact, as per judgment passed in Civil Suit No.1164-2008, decided on 02.12.2014, titled '*Satnam Singh vs. Rajinder Ahluwalia and others*' copy whereof is Annexure P-6, Satnam Singh, the objector in the execution petition as well as Suneet Tayal and other sister namely Navneet Mehta, were together held to be owner to the extent of 1/3rd each. Considering the same, landlady Suneet Tayal was held entitled to seek eviction, being co-owner.

In the given circumstances, while considering Suneet Tayal as landlady, the ejectment order was passed in her favour and she was held entitled to seek eviction by way of the execution. Precisely, on this account, the revision petition, vis-a-vis the denial of issuance of warrants of possession was also accepted.

Considering the same and also considering the very fact of the rights of petitioner and his son of becoming party to the execution petition were denied, while disposing of CRs No.2163 and 1847-2021 filed by them, together with CR-4867-2019, Satnam Singh-present petitioner, cannot now assert, in any manner, about his right of stalling the execution proceedings. Rather, the pending proceedings between decree holder i.e. Suneet Tayal and judgment debtor i.e. Rajneesh Chauhan (tenant), were concluded by this Court vide order dated **27.10.2021** and it is on this basis, that the execution proceedings, were being proceeded further.

However, in pursuance of the culmination of the aforesaid proceedings also, the execution petition never proceeded further. CR-3434-2022 was filed and in pursuance of the order passed in said revision petition, the respondent had filed application, thereby, making prayer for proceeding further in the execution petition, in view of the order dated **26.08.2022** passed by this Court.

Considering the aforesaid manner of the rights having inherited by the persons concerned, vis-a-vis, House No.572, Sector-10D, Chandigarh, which was initially owned by H.S.Ahluwalia and the manner of litigation, so initiated further and also considering the ejectment petition having decided in favour Suneet Tayal against Rajneesh Chauhan, who otherwise has no concern with any pending litigation, between the co-owners, as such, learned Executing Court has rightly allowed the application, vide impugned order and went on to proceed further with the arguments on the objections, so filed.

In view of the aforesaid discussion, the impugned orders merit no interference. Hence, the present revision petition is hereby dismissed.

May 09, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No