

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 190/2023

Date of decision:12/01/2023

Manjit Kaur

.....Petitioner

Vs.

Moti Ram

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Amit Kumar, Advocate for the petitioner

Nidhi Gupta, J.

Prayer in the present revision petition is for setting aside the orders dated 19.9.2022 and 6.10.2022 (Annexures P-5 and P-6 respectively) whereby the Id. Executing Court is stated to have not executed the decree in proper manner, and incomplete possession has been delivered to the petitioner/ Decree Holder.

Brief facts of the case are that petitioner filed rent petition u/s 13 of the East Punjab Urban Rent Restrict Act,1949 for ejectment of the respondent from the godown/premises as described in the head note of the rent petition (Annexure P-1). Vide order dated 2.1.2015 (Annexure P-3) the

Ld.Rent Controller, Amloh directed the respondent to deliver the possession of the demised premises to the petitioner within 60 days.

It is submitted by the Ld.counsel for the petitioner/DH that the respondent's appeal against the aforesaid order dated 2.1.2015 has been dismissed. However, as possession was not handed over to the petitioner, he filed Execution Petition to enforce ejectment order dated 2.1.2015. Thereafter, the objections of the respondent to the said Execution Petition have also been dismissed. It is submitted that in the Execution Petition warrants of possession of the demised property were issued in favour of the petitioner, for compliance of which Sh. Parmod Kumar, Field Kanungo went to the spot to deliver the possession. It is submitted that however, only part possession of the demised premises/suit property was delivered to the petitioner. It is submitted that the suit property was measuring 3 biswas i.e. 45' x 30' whereas actual delivery is of only 2 biswas measuring 20' x 30'. It is stated that while delivering possession Field Kanungo had wrongly relied upon the site plan Annexure-A of the respondent and not considered the site plan Ex.P1 submitted by the petitioner. Accordingly, the petitioner had moved an application on 18.8.2022 before the Ld. Executing Court that the Field Kanungo be directed to deliver possession of the remaining demised premises as mentioned in the head note of the ejectment order dated 2.1.2015, in pursuance to which the Ld. Executing Court summoned the Field Kanungo and directed him to file report whether possession has been delivered in favour of the petitioner which is mentioned in the head note of the ejectment order and file his report for 19.9.2022. It is stated that the Field Kanungo has submitted a wrong report/statement before the Ld. Executing Court. It is further submitted by the Ld.counsel for the petitioner that though the boundaries are the same but the area is different.

No other submission has been made by the Ld.counsel for the petitioner.

Heard Ld.counsel.

Vide impugned order dated 19.9.2022, it has been categorically recorded by the Ld.Additional Civil Judge (Senior Division), Amloh that complete possession of the demised premises as described in the head note of the ejectment petition has been duly delivered to the petitioner. Moreover, ld. Counsel for the petitioner himself has stated before this Court that boundary of the property delivered to him is the same as described in the Headnote of his petition. However, as noticed above, the submission of the petitioner is that though the boundaries are the same, the area is different. It is not clear as to how this can be so. If the boundaries are the same then how can the area be different? It is also admitted that the possession was delivered to the petitioner in the presence of both the parties.

Accordingly, I find that no ground is made out to interfere in the impugned orders. Resultantly, the present revision petition stands dismissed.

12/01/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No