

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.119

Case No. : C. R. No.7220 of 2023

Date of Decision : December 05, 2023

Harender Kumar

.... Petitioner

vs.

Kishan Chand Kataria

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Ms. Sunita Shekhawat, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in the present revision petition is to the order dated 23.02.2022, passed by learned Rent Controller, Narnaul and also to the order dated 05.09.2023, passed by learned District Judge, Narnaul.

2. Brief facts, as culled out from the paper-book, are that the petitioner, vide rent note dated 21.06.2004, took a shop on rent from the respondent @ Rs.1281/- per month. The petitioner kept on paying the rent but during COVID-19, he could not pay the same. The respondent filed eviction petition before the learned Rent Controller in the year 2020. As per version of the petitioner, both the parties arrived at a verbal settlement and the petitioner paid amount of Rs.17,934/- to the respondent at his residence, in presence of two other persons, on account of rent of the shop in question from 01.10.2018 to 30.11.2019 (14 months). Resultantly, respondent gave him assurance that he would withdraw the eviction petition filed against the

petitioner.

3. It is further submitted on behalf of the petitioner that relying upon the assurance given by the respondent, the petitioner did not appear before the learned Rent Controller and ex-parte judgment dated 23.02.2022, the eviction petition filed by the respondent was allowed and petitioner was ordered to deliver the vacant possession of the shop to the respondent within a period of two months from the date of order. The petitioner came to know about the order dated 23.02.2022, only when he received summons in the Execution Petition filed by the respondent.

4. Aggrieved by the order dated 23.02.2022, the petitioner filed an appeal before the learned District Judge, along with the application for condonation of delay. The said appeal, vide order dated 05.09.2023, was dismissed as time barred as delay in filing the appeal was not condoned.

5. Learned counsel for the petitioner, at the outset, has submitted that the petitioner is ready and willing to pay the outstanding rent to the respondent. The petitioner was under the impression that the eviction petition would be withdrawn by the respondent and only because of this reason, he did not appear before the learned Rent Controller but the respondent has cheated him and while giving him false assurance of getting the petition withdrawn, got the petition allowed ex-parte. It has been further submitted that the delay in filing the appeal was only due to lack of knowledge about the ex-parte judgment dated 23.02.2022, which is bona fide and result of cheating on behalf of the respondent.

6. I have heard learned counsel for the petitioner and perused the

case file.

7. The petitioner-tenant appeared in the Court on 27.01.2020 but did not file reply. He was proceeded against ex-parte on 22.10.2021, whereas order of ejectment has been passed on 23.02.2022 on the ground of non-payment of arrears of rent. Since he was appearing before the Court of learned Rent Controller, so in the absence of any other evidence, he is estopped from saying that he came to know about passing of ex-parte ejectment order only on receipt of summons from the Executing Court.

8. When a person intentionally delays the process, then he is not entitled for undue sympathy. There is no dispute that delay in filing the appeal needs to be liberally construed but the Court cannot ignore the fact that delay in filing the appeal cannot be condoned to defeat the substantive rights of the parties. The reason given by the petitioner-tenant for his absence before the learned Rent Controller is that the respondent-landlord assured him that he would withdraw the Eviction Petition. It is a vague plea and is not based on any documentary evidence. A litigant is required to be vigilant. He cannot be misled by the other party. A person, who shirks his responsibility even to verify about the fate of the case, cannot say afterwards that the other party has misled him. The discretion to condone the limitation can only be exercised in a judicial manner and whosoever come with the plea to condone the period of limitation, is not entitled to get it condoned, unless there is sufficient evidence in support of the same. In the instant case, the petitioner-tenant failed to show the sufficient cause to condone the delay.

The learned Courts below have passed well-reasoned orders. There is no

ground to interfere in the same. The present revision petition is without any merit and the same is accordingly dismissed.

9. Pending applications, if any, shall stand disposed of along with this judgment.

December 05, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.