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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of decision: 24.04.2024

Gaurav Kumar Monga

...Petitioner.

Versus

Shashi Chaudhary

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Rajesh Bhatheja, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 29.02.2024 passed by Learned Rent Controller, Moga, vide which application filed by the petitioner under Order 7 rule 11 CPC for rejection of the petition under Section 13 of East Punjab Urban rent Restriction Act, was dismissed.

2. The brief facts relevant for adjudication of the present revision petition are that the earlier respondent Shashi Chaudhary filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act') for ejectment of the petitioner from the shop in dispute alleging that the petitioner took the premises on rent from her on 07.12.2013 and he has he had not paid the rent since 2018 onwards. It was further alleged that she was in bonafide necessity of the shop in dispute as she was

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not having any other shop in the area of Moga. The said petition was dismissed by the Rent Controller, Moga vide judgment dated 09.11.2022. Respondent filed an appeal before the Appellate Authority, Moga. The said appeal was allowed vide judgment dated 14.07.2023 passed by the Appellate Authority, Moga. The petitioner/ tenant filed Civil Revision Petition No.6137 of 2013 before this Court and vide order dated 13.10.2023 of this Court, the notice of motion in the said revision petition was issued and in the meantime execution proceedings before the Executing Court were stayed.

3. During pendency of the said petition respondent/ landlady again filed another petition under Section 13 of the Act. The petitioner filed an application under Order 7 Rule 11 CPC for rejection of the said petition under Section 13 of the Act filed by respondent/ landlady alleging that earlier also petition titled as 'Shashi Chaudhary Vs. Gaurav Kumar Monga' had been filed by the respondent/ landlady against the petitioner on the same cause of action which had been dismissed by the Rent Controller, Moga on 09.11.2022. As the respondent/ landlady has filed a similar petition on the same cause of action, so the said petition is not maintainable. Reply to the said application was filed by the respondent/ landlady. Thereafter, the said application was dismissed vide impugned order dated 29.02.2024. Aggrieved by the said order, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

4. Learned counsel for the revision petitioner has contended that

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the impugned order is wrong, illegal, unjust and is liable to be set aside. The Rent Controller has not considered the fact that earlier also respondent/ landlady had filed the rent petition on the same cause of action which had been decided by the trial Court and now the Civil Revision No.6137-2023 arising out of the said earlier petition is pending before this Court. The present petition filed on the same cause of action is not maintainable as per law and the respondent/ landlady has wrongly stated the facts while mentioning in para No.8 of the petition that no ejectment petition had been previously decided by the Court on the same grounds.

5. I have heard learned counsel for the petitioner and has gone through the relevant record.

6. The law in this context is well settled that while considering an application under Order 7 Rule 11 CPC, the Court is only to look into the averments as made in the plaint and at that stage, the stand taken in the written statement is not to be seen.

7. The perusal of the impugned order reveals that in para No.6 of the said order, it has been specifically mentioned that counsel for the petitioner suffered a statement to the effect that he withdraws the ground of personal necessity from the petition, as eviction on the ground of personal necessity has already been allowed by the Court of Additional District Judge, Moga, vide order dated 14.07.2023 and petition be heard on the ground of arrears of rent as mentioned in para No.5(i) of petition and rent be assessed. So, it has been rightly observed by the trial Court that now the present petition is only on the ground of non-payment of rent. Copy of the

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earlier petition has been placed on record, which shows that it has been filed on the ground of arrears of rent since July, 2018 and the bonafide necessary. But the present eviction petition has been filed on the ground of arrears of rent since October, 2019 and the ground of the bonafide necessity has been given up. It has been rightly taken note that the revision petitioner is silent qua payment of rent to the landlady in the application filed under Order 7 Rule 11 CPC and as such the cause of action has arisen to the landlady to file the ejectment/ eviction petition against the petitioner/ tenant for non-payment of rent.

8. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

24.04.2024.*komal*

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No