



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3033 of 2024 (O&M)

Date of Order:20.05.2024

Bhupinder Singh (since deceased) through his LRs

.Petitioner

Versus

Inderjit Walia

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankit Joshi, Advocate
for the petitioner.

Mr. Vishal Aggarwal, Advocate
Mr. Shehbaz Thind, Advocate
for the caveator/respondent.

ANIL KSHETARPAL, JCM-8970-CII-2024

1. For the reasons stated in the application which is supported by an affidavit, the application for bringing on record the legal representatives of deceased late Sh. Bhupinder Singh [appellant] mentioned in paragraph 2 of the application, is allowed, subject to all the just exceptions.

2. CM stands disposed of.

MAIN

3. In this revision petition, the petitioner assails the correctness of the concurrent orders passed by the Rent Controller which in appeal has been affirmed by the Appellate Authority while dismissing his application under Order IX Rule 13 CPC to set aside the ex-parte eviction order.

4. The learned counsel representing the petitioner contends that the petitioner was never served with the notice and he was wrongly



proceeded against ex-parte. He submits that the courts have failed to appreciate the material evidence produced before the court.

5. Per contra, the learned counsel representing the respondent draws the attention of the court to the zimni orders passed from 04.10.2001 to 31.08.2002, and contends that the petitioner has failed to prove any sufficient cause for failing to appear in the court. He further submits that in the execution petition the possession of the shop in question has already been handed over to the respondent.

6. This court has considered the submissions of the learned counsel representing the parties.

7. Though, the petitioner and the respondent are biological brothers, however, the petitioner has failed to prove any right in the property. Their father died in the year 1997, and thereafter the properties left behind by their father were divided amongst them. It is claimed by the respondent that the suit property came to his share and the petitioner was permitted to continue in possession on payment of rent, however, the petitioner has failed to pay the rent.

8. The daily orders passed from 04.10.2001 to 31.08.2002 are extracted as under:-

“Present Counsel for the petitioner.

*Respondent not served. Be again served on
PF/RC for 28.11.2001.*

RC/04.10.2001

Present Counsel for the petitioner

*Notice not received back. Fresh notice be
again issued on filing PF/RC for 16.05.2002.*

RC/28.11.2001



*Present Counsel for the petitioner.
Respondent in person.
To come up on 29.5.2002 for written
statement.*

RC/16.05.2002

*Present Counsel for the parties
Written statement not filed. Same be filed on
8.6.2002.*

RC/29.05.2002

*Present Counsel for the parties
Written statement not filed. Adjournment
prayed. Same be filed on 24.7.2002 subject
to Rs.50/- costs.*

RC/08.06.2002

*Present Counsel for the parties
Written statement not filed. Adjournment
prayed. To come upon for filing written
statement on 17.8.2002 subject to costs of
Rs.100/-*

RC/24.07.2002

*Present Counsel for the parties
Written statement not filed. Adjournment
prayed. Same be filed on 31.8.2002 subject
to 200/- rupees cost.*

RC/17.08.2002

*Present Counsel for the petitioner.
None for respondent.
Petition called several time during the day
but none appeared on behalf of respondent.
Previous cost also not paid. As such,
respondent is proceeded as exparte. Now to
come up on 12.2.2002 for exparte evidence
of the petitioner.*

RC/31.08.2002.”

9. It has also been recorded by the First Appellate Court that under the zimni orders dated 28.01.2002, the petitioner has appended is signatures. The ex-parte ejectment order was passed in the year 2006 and the application for setting aside the ejectment order was filed on 05.03.2013. .
10. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
11. Dismissed. .
12. All the pending miscellaneous applications, if any, are also disposed of.

May 20, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO