



CR No.5312 of 2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CR No.5312 of 2024 (O&M)
Date of Decision: 13.09.2024

Amarjit Singh

..... Petitioner

Versus

Pawan Kumar Chopra and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

VIKAS BAHL, J (ORAL)

1. This is a civil revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 17.08.2024 passed by the Court of Civil Judge (JD), Amritsar-cum-Executing Court, whereby the warrants of possession of demised premises have been issued on the basis of the ejectment order dated 10.04.2024 (Annexure P-1).

2. Learned counsel for the petitioner has submitted that against the order dated 10.04.2024, the petitioner had filed an appeal i.e. RA-58-2024 and on the first date of hearing i.e. on 08.05.2024, the Court of Additional District Judge, Amritsar was pleased to pass the following order:-

“Present: *Sh. Vipin Sodhi Advocate for appellant.*

*Present appeal received by assignment alongwith caveat. It be checked and registered. **There is arguable points in this appeal and the same is admitted just for exceptions.***



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Sh. T.S. Sandhu, Advocate, Counsel for the caveator has also filed an caveat. Let, notice to the caveator-respondents's counsel be issued for 28.05.2024.

Record of the Lower Court be also called for the said date.

Date of Order: 08.05.2024

(Monica Sharma)

Additional District Judge, Amritsar”

3. It is submitted by learned counsel for the petitioner that it was observed in the abovesaid order that there were arguable points in the appeal. It is further submitted that on 28.05.2024, the Advocate for the respondents in the appeal had appeared and it was ordered that the trial Court record be summoned for 07.08.2024. The zimni order dated 28.05.2024 is reproduced as under:-

“Present: *Sh. Vipin Sodhi Advocate for the appellant.*

Sh. T.S. Sandhu Advocate for the respondent.

Sh. T.S. Sandhu Advocate has filed power of attorney on behalf of respondents which is taken on record. Let trial Court record be summoned for 07.08.2024.

Date of Order: 28.05.2024

(Monica Sharma)

Additional District Judge, Amritsar”

4. It is further submitted that on 07.08.2024, an application was filed by the respondents for directing the appellant to pay mesne profits to the respondent after assessing the same and the case was adjourned to 19.11.2024 for filing reply. The order dated 07.08.2024 is reproduced as under:-

“Present: *Sh. Vipin Sodhi Advocate for the appellant.*

Sh. T.S. Sandhu Advocate for the respondent.



An application on behalf of the respondents for directing the appellant to pay mesne profits to the respondent after assessing the same has been filed. Copy supplied. Let, reply be filed on 19.11.2024.

Date of Order: 07.08.2024

(Monica Sharma)

Additional District Judge, Amritsar”

5. Learned counsel for the petitioner has submitted that vide the impugned order dated 17.08.2024, the Executing Court, on an application filed by the respondents, who had already appeared in the rent appeal, the warrant of possession was issued for 26.09.2024 without any notice to the petitioner. It is submitted that since the said warrant had been issued, the petitioner moved an application for preponement of the case and notice was issued on the said application for 09.09.2024, on which date the petitioner had even filed a reply to the application for assessment of mesne profits and the same is annexed as Annexure P-5. It is further submitted that the case is now fixed for 08.10.2024 for considering the stay application as well as the application for mesne profits. It is argued that in case, in pursuance of order dated 17.08.2024, the possession is taken from the petitioner, the same would cause serious prejudice to the petitioner and his first appeal would be ineffect rendered infructuous. In view of the same, learned counsel for the petitioner prays that the stay application as well as the application for mesne profits be heard on an earlier date and till the time, the stay application as well as application for mesne profits is not decided, status quo, as it exists today, be maintained.



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6. Keeping in view the above said facts and circumstances of the case as well as the fact that the above said zimni orders show that the notice was issued in the appeal of the petitioner by the Court after observing that there were arguable points in the appeal, the present revision petition is disposed of with the following directions/terms:-

(i) The petitioner would file an application for preponement before the Appellate Authority on or before 17.09.2024 for preponing the hearing in the application for stay as well as in the application of mesne profits. The petitioner would also provide a copy of the said application to the counsel for the respondent.

(ii) In case any such application is filed, the Appellate Authority would prepone the case to a date prior to 25.09.2024 and the counsel for the respondent-landlord would also be informed about the same.

(iii) The Appellate Authority would consider the stay application as well as the application of mesne profits on the preponed date and would decide the same as expeditiously as possible, preferably, within a period of two weeks from the said preponed date. Till the time the stay application is not decided by the Appellate Authority, the status quo regarding possession, as it exists today, be maintained.

7. It is clarified that the grant of the said status quo order should not be construed as an expression on the merits of the case nor the same should be construed as accepting the plea of the petitioner on merits as the



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said order has been passed only on account of the peculiar facts and circumstances of the present case as the statutory appeal of the petitioner is pending and warrant of possession has been issued by the Executing Court.

8. It is further clarified that the Appellate Authority would decide the application for stay as well as mesne profits independently after hearing both the parties.

9. It would be relevant to note here that no notice is being issued in the present case to the respondents as issuance of notice would unnecessary delay the proceedings and would also entail expenses for the respondents to defend the present petition. However, in case, any argument made by the petitioner as noticed hereinabove is factually incorrect, then it would be open to the respondents to move an application for recalling the present order.

13.09.2024

D.Bansal

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No