



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-6432-2024 (O&M)
Date of decision: 20.11.2024

Kamaljit Kaur

...Petitioner

Versus

Yogita Basil and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Atul Goyal, Advocate for the petitioner.

VIKAS SURI, J.

1. This is a petition under Article 227 of the Constitution of India, filed by petitioner-landlady (Kamaljit Kaur) assailing the order dated 17.09.2024 (Annexure P-8) passed by learned Civil Judge (Junior Division), (Rent Controller), Ludhiana, whereby an application under Order 9 Rule 13 CPC for setting aside *ex parte* order dated 01.02.2021 passed in Rent Petition No.RP/38/2021 titled as *Kamaljit Kaur vs. Yogita Basil and others*, has been allowed.

2. Briefly stated, the petitioner had filed a rent petition bearing No.452/2019 titled as *Kamaljit Kaur vs. Yogita Basil and others*. Upon notice in the said petition, respondent No.1 caused appearance and expressed her intention to oppose the same.

2.1 However, later on, the petitioner filed another rent petition



bearing No.38/2021 titled as *Kamaljit Kaur vs. Yogita Basil and others*. In the said petition, in addition to respondent No.1, her children (respondent Nos.2 and 3) were also impleaded as respondents. In para 7 of the subsequent rent petition (RP/38/2021), it was stated that Rent Petition No.452/2019 has been withdrawn by the petitioner, whereas the said petition had in fact not been withdrawn and was still pending.

2.2 In the subsequent rent petition, the respondents were proceeded against *ex parte* vide order dated 16.03.2021 on the basis of report of process server and an *ex parte* order of eviction was passed on 29.09.2021. The case of the respondents is that they had not received any notice in the subsequent rent petition and were informed by their counsel of the pendency of execution petition seeking enforcement of *ex parte* eviction order dated 29.09.2021.

2.3 The respondents filed an application under Order 9 Rule 13 CPC for setting aside *ex parte* eviction order dated 29.09.2021 as also the order dated 16.03.2021 proceeding them against *ex parte*. Upon notice of the application, the same was opposed by filing reply. On consideration of the rival contentions on behalf of the parties, the aforesaid application was allowed and the *ex parte* eviction order as well as order proceeding the respondents against *ex parte* noticed above, was set aside.

3. A perusal of the impugned order dated 17.09.2024 would show that the Rent Controller upon careful perusal of the record came to the conclusion that proper service had not been effected upon the



respondents. It was further noticed that respondent Nos.2 and 3 were minor and as such, their service could only have been effected upon an adult family member. It was also noticed that in the subsequent rent petition, the petitioner had made a categorical statement that she has withdrawn the previous rent petition (RP/452/2019) whereas on the date of institution of subsequent rent petition, i.e. 01.02.2021, the previous rent petition was still pending; rather the same was withdrawn almost after a period of 10 months thereafter, on 13.07.2022, and after passing of the *ex parte* eviction order dated 29.09.2021.

4. Learned counsel for the petitioner has emphatically assailed the aforesaid findings. It is submitted that respondent No.2 was not a minor and hence, the aforesaid observation is not sustainable. However, learned counsel for the petitioner is not in a position to dispute that respondent No.3 has been shown to be a minor, in the rent petition itself and the alleged refusal by the minor to accept summons on behalf of his brother and mother, would not be a valid service in law. Moreover, there was no compliance of the provisions of Order 5 Rule 15 CPC and Order 2 Rule 4 CPC.

5. After arguing for some time and realizing the consequences, learned counsel for the petitioner, on instructions, states that petitioner seeks to withdraw challenge to the impugned order and prays that a direction be issued to the rent authority to dispose of the rent petition expeditiously.

6. The Hon'ble Supreme Court in ***Ramrameshwari Devi and***



others vs. Nirmala Devi and others, (2011) 8 SCC 249, was considering the steps for improving inordinate delays that occur in civil litigation and how unscrupulous litigants harass the respondents by abusing the judicial system. Their Lordships of the Apex Court were considering the question whether the prevailing delay in civil litigation can be curbed, which consideration resulted in a slew of directions being issued. The operative part of the judgment, reads thus:-

“52. The main question which arises for our consideration is whether the prevailing delay in civil litigation can be curbed? In our considered opinion the existing system can be drastically changed or improved if the following steps are taken by the trial courts while dealing with the civil trials:

A. Pleadings are the foundation of the claims of parties. Civil litigation is largely based on documents. It is the bounden duty and obligation of the trial Judge to carefully scrutinise, check and verify the pleadings and the documents filed by the parties. This must be done immediately after civil suits are filed.

B. The court should resort to discovery and production of documents and interrogatories at the earliest according to the object of the Act. If this exercise is carefully carried out, it would focus the controversies involved in the case and help the court in arriving at the truth of the matter and doing substantial justice.

C. Imposition of actual, realistic or proper costs and/or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by



the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

D. The court must adopt realistic and pragmatic approach in granting mesne profits. The court must carefully keep in view the ground realities while granting mesne profits. E. The courts should be extremely careful and cautious in granting ex parte ad interim injunctions or stay orders. Ordinarily short notice should be issued to the defendants or respondents and only after hearing the parties concerned appropriate orders should be passed.

F. Litigants who obtained ex parte ad interim injunction on the strength of false pleadings and forged documents should be adequately punished. No one should be allowed to abuse the process of the court.

G. The principle of restitution be fully applied in a pragmatic manner in order to do real and substantial justice.

H. Every case emanates from a human or a commercial problem and the court must make serious endeavour to resolve the problem within the framework of law and in accordance with the well-settled principles of law and justice.

I. If in a given case, ex parte injunction is granted, then the said application for grant of injunction should be disposed of on merits, after hearing both sides as expeditiously as may be possible on a priority basis and undue adjournments should be avoided.



J. At the time of filing of the plaint, the trial court should prepare a complete schedule and fix dates for all the stages of the suit, right from filing of the written statement till pronouncement of the judgment and the courts should strictly adhere to the said dates and the said timetable as far as possible. If any interlocutory application is filed then the same be disposed of in between the said dates of hearings fixed in the said suit itself so that the date fixed for the main suit may not be disturbed.”

7. In *Yashpal Jain vs. Sushila Devi and others*, 2023 INSC 948, the Apex Court while considering the aspect of speedy justice in civil matters called upon all stakeholders, i.e. the legal fraternity, the legislature, the executive and the citizens to join hands in a concerted effort to untangle the web of delay and pendency. It was to streamline procedures, bolster infrastructure, invest in technology, and empower our judiciary to meet the demands of our time. In furtherance of the aforesaid objectives, the following directions were issued:-

“41. The following directions are issued:

- i. All courts at district and taluka levels shall ensure proper execution of the summons and in a time bound manner as prescribed under Order V Rule (2) of CPC and same shall be monitored by Principal District Judges and after collating the statistics they shall forward the same to be placed before the committee constituted by the High Court for its consideration and monitoring.
- ii. All courts at District and Taluka level



shall ensure that written statement is filed within the prescribed limit namely as prescribed under Order VIII Rule 1 and preferably within 30 days and to assign reasons in writing as to why the time limit is being extended beyond 30 days as indicated under proviso to sub-Rule (1) of Order VIII of CPC.

iii. All courts at Districts and Talukas shall ensure after the pleadings are complete, the parties should be called upon to appear on the day fixed as indicated in Order X and record the admissions and denials and the court shall direct the parties to the suit to opt for either mode of the settlement outside the court as specified in sub-Section (1) of Section 89 and at the option of the parties shall fix the date of appearance before such forum or authority and in the event of the parties opting to any one of the modes of settlement directions be issued to appear on the date, time and venue fixed and the parties shall so appear before such authority/forum without any further notice at such designated place and time and it shall also be made clear in the reference order that trial is fixed beyond the period of two months making it clear that in the event of ADR not being fruitful, the trial would commence on the next day so fixed and would proceed on day-to-day basis.

iv. In the event of the party's failure to opt for ADR namely resolution of dispute as prescribed under Section 89(1) the court should frame the issues for its determination within one week preferably, in the open court.

v. Fixing of the date of trial shall be in



consultation with the learned advocates appearing for the parties to enable them to adjust their calendar. Once the date of trial is fixed, the trial should proceed accordingly to the extent possible, on day-to-day basis.

vi. Learned trial judges of District and Taluka Courts shall as far as possible maintain the diary for ensuring that only such number of cases as can be handled on any given day for trial and complete the recording of evidence so as to avoid overcrowding of the cases and as a sequence of it would result in adjournment being sought and thereby preventing any inconvenience being caused to the stakeholders.

vii. The counsels representing the parties may be enlightened of the provisions of Order XI and Order XII so as to narrow down the scope of dispute and it would be also the onerous responsibility of the Bar Associations and Bar Councils to have periodical refresher courses and preferably by virtual mode.

viii. The trial courts shall scrupulously, meticulously and without fail comply with the provisions of Rule 1 of Order XVII and once the trial has commenced it shall be proceeded from day to day as contemplated under the proviso to Rule (2).

ix. The courts shall give meaningful effect to the provisions for payment of cost for ensuring that no adjournment is sought for procrastination of the litigation and the opposite party is suitably compensated in the event of such adjournment is being granted.

x. At conclusion of trial the oral arguments



shall be heard immediately and continuously and judgment be pronounced within the period stipulated under Order XX of CPC.

xi. The statistics relating to the cases pending in each court beyond 5 years shall be forwarded by every presiding officer to the Principal District Judge once in a month who (Principal District Judge/District Judge) shall collate the same and forward it to the review committee constituted by the respective High Courts for enabling it to take further steps.

xii. The Committee so constituted by the Hon'ble Chief Justice of the respective States shall meet at least once in two months and direct such corrective measures to be taken by concerned court as deemed fit and shall also monitor the old cases (preferably which are pending for more than 05 years) constantly.

8. In the present case, the limited prayer made by learned counsel for the petitioner is reasonable and in consonance with the direction by the Hon'ble Supreme Court, extracted above. It is also noticed that the judgment in *Yashpal Jain's case* (supra), in compliance with the directions issued in the concluding paragraph thereof, has been circulated by this Court to all judicial officers in the States of Punjab, Haryana and U.T. Chandigarh, vide letter dated 09.11.2023.

9. Accordingly, the present revision petition is disposed of as not pressed and the Court below is duty bound to expeditiously dispose of the rent petition, in accordance with law and by making strict compliance with the directions issued by the Apex Court, noticed



hereinabove.

10. The revision petition is disposed of in the aforesaid terms.

November 20, 2024
sumit.k

(VIKAS SURI)
JUDGE

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