



CR-7058-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-7058-2024

Date of decision : 13.12.2024

Kamal Kumar @ Kamal Deep

... Petitioner

Versus

Krishan Gopal

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sunny K. Singla, Advocate
for the petitioner.

Mr.Gaurav Vir Singh Behl, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India against the impugned judgment dated 25.10.2024 passed by the Appellate Authority, Malerkotla (Annexure P-7) and order dated 25.10.2023 passed by the Additional Civil Judge (Sr.Div.), Malerkotla (Annexure P-5).

2. On 05.12.2024, this Court was pleased to pass the following order:-

“Inter alia, contends that in the present case, the eviction petition has been filed only on the ground of non-payment of rent and as per the petition, the amount due was Rs.1,32,693/-. It is further contended that a perusal of the service report (at running page 57 of the paperbook) would



*show that there is no compliance of provision of Order 5 Rule 17 CPC, inasmuch as, the serving officer was supposed to affix a copy of the summons on the outer door or some other conspicuous part of the house in which the present petitioner was residing. In this regard, reliance has been placed upon a judgment of the Co-ordinate Bench of this Court in case titled as '**Surjit Singh Vs. Punjab Wakf Board through Chief Executive Officer**', reported as 2019(2) PLR 275. It is submitted that there is no independent witness who has signed the report and the same only bears the signature of the plaintiff in addition to the process server. It is further submitted that although, the petitioner has not been liable to pay the rent but only in order to show his bona fide, the petitioner is ready to make the payment of an amount of Rs.1,32,693/- in favour of the respondent and would bring the demand draft prepared in the name of respondent on the next date of hearing. It is stated that in such circumstances, an opportunity be granted to the petitioner to contest the eviction petition.*

Notice of motion for 12.12.2024.

Liberty is granted to the petitioner to serve the respondent through dasti process also.

Till the next date of hearing, status quo with respect to possession be maintained.

Petitioner is directed to bring a demand draft of an amount of Rs.1,32,693/- prepared in the name of the respondent on the next date of hearing.

It is made clear that in case the said demand draft prepared in the name of the respondent is not produced by the petitioner on the next date of hearing, then, the present petition would be liable to be dismissed.

To be taken in the urgent list.”



CR-7058-2024

3

3. On 12.12.2024, the following order was passed by this Court:-

“Learned counsel for the petitioner has submitted that in pursuance of the order dated 05.12.2024, he has prepared the demand draft and has shown the photocopy of the same and has submitted that he would tender the original demand draft tomorrow in the Court.

Learned counsel for the respondent also prays for time to get instructions in the matter.

Adjourned to 13.12.2024.

To be taken up in the urgent list.

Interim order to continue.”

4. Learned counsel for the petitioner in pursuance of the above said orders has got demand draft of Rs.1,32,693/-, which has been handed over to the respondent, which fact has been reaffirmed by the learned counsel for the respondent.

5. Learned counsel for the respondent has submitted that even in case the impugned order is to be set aside and the petitioner is to be given an opportunity to file written statement and defend the case, then also the petitioner should be directed to file the written statement within 10 days as the case has been pending since 2020 and the petitioner should be further directed not to seek any unnecessary adjournments and the Rent Controller be also requested to decide the case expeditiously.

6. With the consent of learned counsel for the petitioner and the respondent, the present petition is partly allowed and the impugned orders dated 25.10.2023 as well as 25.10.2024 are set aside and the application filed by the petitioner under Order 9 Rule 7 and 13 CPC for setting aside the

ex-parte order dated 19.10.2021 and ex-parte judgment and decree dated



CR-7058-2024

4

16.07.2022 is allowed and the ex-parte order dated 19.10.2021 as well as the ex-parte judgment and decree dated 16.07.2022 are set aside with the following observations/directions:-

- i) The petitioner as well as the respondent would appear before the trial Court on 17.12.2024 and bring to the notice of the trial Court the order passed by this Court.
- ii) The petitioner would file written statement on or before 23.12.2024 with an advance copy to learned counsel for the respondent-landlord.
- iii) The respondent would then be granted opportunity to file replication and the case would proceed thereafter, in accordance with law.
- iv) Since the rent petition was filed by the respondent in the year 2020, the Rent Controller is requested to decide the same, in accordance with law, as expeditiously as possible.

(VIKAS BAHL)
JUDGE

December 13, 2024.
Davinder Kumar

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