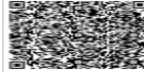
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****133****CR-394-2025 (O&M)****Date of decision: 22.01.2025****Amit Vishnoi****...Petitioner(s)****Vs.****Vivek Chandok and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Narender Singh, Advocate for the petitioner.

*********NIDHI GUPTA, J.**

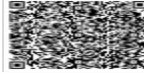
The present revision petition has been filed by the petitioner/tenant under Article 227 of the Constitution of India for setting aside the impugned order dated 05.07.2024 (Annexure P-11), order dated 17.07.2024 (Annexure P-12) passed by the learned Executing Court in EXE-235-2024 titled as "Vivek Chandok Vs. Sh. Amit Vishnoi" as well as all consequential proceedings.

2. The brief facts of the case are that a registered lease deed dated 15.3.2018 was entered into between the petitioner and the respondent/landlord, whereby the petitioner was inducted as a tenant in residential villa (hereinafter referred to as "demised premises"). However, as the petitioner was in arrears of rent, the respondent filed Eviction Application before the Rent Controller, which was allowed vide order dated 24.05.2024 (Annexure P-8). The petitioner filed rent appeal against the said order, which is pending before the learned Additional



District Judge, Gurugram. During this period, the respondent filed Execution Proceedings in which vide order dated 05.07.2024 (Annexure P-11) warrants of possession were issued against the petitioner. Further vide order dated 17.07.2024 (Annexure P-12), the learned Executing Court directed sale of articles left by the petitioner in the demised premises, through auction. Accordingly, present revision petition has been filed, praying that the impugned order dated 05.07.2024 (Annexure P-11) and order dated 17.07.2024 (Annexure P-12) passed by the learned Executing Court as well as all consequential proceedings emanating therefrom be set aside and further direction be issued to the respondent/landlord to restore the possession of the petitioner in the demised premises; and that further proceedings before the learned Executing Court, Gurugram may be stayed during the pendency of the instant civil revision.

3. Ld. counsel for the petitioner *inter alia* submits that the impugned order dated 05.07.2024 (Annexure P-11) and the order dated 17.07.2024 (Annexure P-12) have been passed by the Id. Executing Court at the back of the petitioner. The said orders have been passed on the mistaken premise that the petitioner is in arrears of rent to the tune of Rs. 45 lacs. Moreover, the Rent Appeal filed by the petitioner against the order dated 24.05.2024 was still pending before the learned Additional District Judge, Gurugram as is evident from zimni order dated 01.07.2024 (Annexure P-9). Yet, Execution Petition was filed and order dated 05.07.2024 (Annexure P-11) was passed whereby warrants of



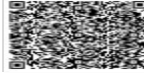
possession were issued against the petitioner. Further, great loss and injustice shall be caused to the petitioner if the said orders are not set aside.

4. No other arguments has been raised on behalf of the petitioner.

5. Heard learned counsel for the petitioner and perused the case file in great detail.

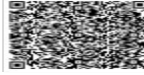
6. In order to properly appreciate the controversy at hand, it will be apposite to refer to the sequence of events/ admitted facts, in chronological order, as enumerated hereinbelow:

7. Perusal of the record of the case shows that a registered lease deed dated 15.3.2018, was executed between the petitioner/Tenant and the respondent/landlord in respect of the demised premises for a period of 3 years. In violation of the terms and conditions thereof, the petitioner/tenant did not make the payment or enhance the rent w.e.f. 15.03.2019 to 14.04.2019 despite many requests. Accordingly, on 06.12.2021 the respondent/landlord filed Rent Petition bearing No. RP-128-2021 (Annexure P-1), under Section 13 of the Haryana Urban (Control of Rent and Eviction) Rules, 1976 against the petitioner for his eviction from the demised premises. The petitioner appeared in the said Rent Petition on 21.11.2022, whereupon the case was adjourned to 01.03.2023 for filing of reply as evident from copy of zimni order dated 21.11.2022 (Annexure P-2). However, on 01.03.2023, the petitioner not only failed to file reply, but even did not appear before



the learned Rent Controller; and consequently, it was directed that the petitioner be proceeded against *exparte* and the matter was posted to 29.07.2023 for the *ex-parte* evidence. On 29.07.2023, the petitioner filed an application (Annexure P-3) for setting aside the *exparte* order dated 01.03.2023. A reply thereto dated 06.10.2023 (Annexure P-4) was filed by the respondent/landlord. Vide order dated 20.04.2024 (Annexure P-5), the said application of the petitioner was dismissed by the learned Rent Controller on the ground that the application (Annexure P-3) was filed by the petitioner 5 months after passing of the order dated 01.03.2023, whereas the same is required to be filed within 30 days from the date of knowledge; and that the petitioner had failed to mention as to how he got the knowledge about the *exparte* proceedings.

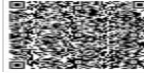
8. Perusal of the order dated 20.04.2024 reveals that the learned Rent Controller also took into account the fact that the petitioner had ceased to pay the rent from July 2019 pursuant to which the lease deed was terminated. Yet *“he did not vacate the suit premises till date even after termination of lease admittedly and approximately Rs.25 lakhs of arrears of rent maintenance are outstanding against the applicant/tenant and the delay caused by defendant in appearing in the court becomes justified from his denial to vacate the suit premises even without making payment of rent at this stage even after giving an offer by opposite party.”*



9. It was further noticed by the learned Rent Controller that during the course of the proceedings in the said application, the respondent/landlord had even offered the petitioner to first vacate the premises and then the issue regarding damages or arrears of rent could be decided later on, either amicably or by way of settlement or through the court. But the tenant had specifically stated that *"he would not pay even single penny qua rent and stated that even for vacation of premises he needs Rs.3-4 lakhs and does not have Rs.3-4 lakhs presently. Therefore, he cannot vacate the premises."* It was further observed that the petitioner had evil design to cause wrongful loss to the respondent/landlord. As such, the said application was dismissed.

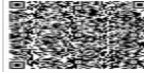
10. Aggrieved of the order dated 20.04.2024 (Annexure P-5), the petitioner had filed a Civil Revision No. 3163 of 2024 before this Court in which notice was issued vide order dated 22.05.2024 (Annexure P-7) for 30.05.2024. The case of the petitioner is that the order dated 22.05.2024 (Annexure P-7) was duly shown to the Rent Controller yet, the Court below proceeded to pass the eviction order dated 24.05.2024 (Annexure P-8). As a result, vide order dated 30.05.2024 (Annexure P-7 colly), the above said Civil Revision was dismissed by a Coordinate Bench of this Court as having been rendered infructuous with liberty to the petitioner to challenge the eviction order.

11. The petitioner then challenged the order dated 24.05.2024 (Annexure P-8) before the learned Additional District Judge by way of Rent Appeal No. RA-15-2024 in which vide order dated 01.07.2024



(Annexure P-9), notice was issued for 05.09.2024. On 01.07.2024 itself, respondent/landlord filed an Executing Petition before the Rent Controller. A perusal of zimni order dated 01.07.2024 (Annexure P-10) shows that the Executing Court directed that report from Ahlmad be sought regarding any stay from learned Appellate Court, if any, and the matter was posted for 05.07.2024. On 05.07.2024 (Annexure P-11), the Executing Court relied upon judgment in **Parminder Singh Sandhu versus Maninder Singh (Punjab and Haryana) Law Finder Doc ID # 696063**, (wherein it is held that if execution petition is filed within two years from the date of passing of decree, there is no requirement to give notice and warrant of possession can be straight away be issued by the court), and accordingly dispensed with issuance of notice to petitioner and issued warrant of possession of demised premises with police help. The Court also recorded that as per report of Ahlmad, no appeal was pending against Ex-parte eviction order, (although rent appeal was duly filed on 01.07.2024). In passing the warrant of possession against the petitioner, the following observations were made by the Id. Executing Court: –

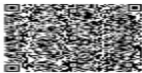
“Therefore, in view of the submissions made by DH and in view the peculiar facts and circumstances of the case in which the JD-Tenant illegally kept the house occupied and failed to pay rent for a long time, rather, he asked for 3-4 lakhs for getting it vacated openly in the court. In such circumstances, there is every likelihood of causing obstruction in delivery of possession.”



12. Subsequently, vide impugned order dated 17.07.2024 (Annexure P-12) the Executing Court observed that as per Report of Bailiff, possession of property has been delivered to decree holder. However, there were certain articles left by JD who failed to appear at the time of delivery of possession. Exparte proceedings were carried out while issuing warrant of possession. The order further records that case is adjourned to 09.08.2024 for taking aforesaid articles by JD after making payment of arrears of rent failing which the said articles would be sold through auction. Further DH was at liberty to issue publication in newspaper "The Statement" giving details of these articles for selling the same through auction. Bailiff of the Court was appointed as officer for sale through auction. As under the Haryana Urban (Control of Rent & Eviction) Act, 1973, there is no provision for recovery of arrears of rent and it is only a ground for seeking eviction, thus, for recovery of arrears of rent after vacation of tenanted premises, the landlord is required to file separate civil suit for recovery of arrears of rent.

13. From the above enumeration of events, it is clear that the impugned orders suffer from no infirmity, and are in accordance with law, and are just and fair in the facts and circumstances of the case. It may also be pointed out that despite repeated queries by this Court, as to whether the petitioner was actually in arrears of rent of ₹45 lakhs, or how much rent was owed by the petitioner to the respondent, learned counsel for the petitioner has been evasive and has given no clear reply.

14. The present civil revision stands **dismissed**.



15. Pending application(s) if any also stand(s) disposed of.

22.01.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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