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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-952-2025

Date of decision: 15.02.2025

Sadha Singh (deceased) through his LR

...Petitioner(s)

Versus

Amrik Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Manish Kansra, Advocate for
Mr. Vikas Gupta, Advocate and
Mr. Raghav Soni, Advocate for the petitioner(s).

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 03.12.2024 (Annexure P-5) passed by the Civil Judge (Junior Division), Ajnala, Amritsar in the execution bearing No.26/2024 dated 04.05.2024 titled as “Amrik Singh Vs. Sadha Singh (deceased) through his LR’s” vide which the warrants of possession have been issued by the Executing Court for the execution of the judgment and decree dated 21.10.2019.

2. A perusal of the paper book would show that respondent No.1-plaintiff-Amrik Singh had filed a suit for ejectment from the premises in question which was stated to have been given on rent to the predecessor-in-interest of the present petitioner(s) i.e., Sadha Singh. The said suit was filed



on 04.09.2014 and after due contest, the same was allowed vide judgment and decree dated 21.10.2019. The operative part of the said judgment is reproduced hereinbelow:-

“25. This issue is with regard to payment of court fee. Relationship between the landlord and tenant stood proved. Once a landlord brings suit against tenant for eviction, he is not required to pay court fee at the market value of the suit property rather he is required to pay only fixed court fee. Accordingly, this issue is decided in favour of plaintiff and against the defendants.

Relief:

*26. In view of my findings on the aforesaid issues, suit of the plaintiff succeeds and same is decreed with costs to the effect **that defendants are directed to vacate the disputed property i.e. two rooms**, out of Haweli situated in the area of village Jhanjoti, Tehsil Ajnala, District Amritsar, described as East: Gali, West: Property of Bachan Singh son of Mehal Singh etc, South: Amrik Singh son of Kartar Singh, Ajit Singh @ Surjit Singh s/o Kartar Singh, North: Surta Singh, Mohinder Singh deceased, within a period of two months from the date of decree. **Plaintiff is also held entitled to arrears of rent @ Rs.25/- per month w.e.f. 04.9.2011 till the date of delivery of possession. Decree sheet be prepared. File be consigned to the record room.***

Announced in open Court on

Dated: 21.10.2019

*Sd/- (Ram Pal), PCS,
Civil Judge (Jr. Division),
Ajnala.*

UID No.: PB-0501”

A perusal of the above would show that respondent No.1-plaintiff was also held entitled to the arrears of rent @ Rs.25/- per month



w.e.f., 04.09.2011 till the date of delivery of possession.

3. On a pointed query raised by this Court as to whether the arrears of rent have been paid, learned counsel for the petitioner(s) has submitted that he is not aware of the said fact.

4. An appeal against the said judgment was filed on 29.11.2019. The zimni orders passed in the said appeal have been annexed along with the present revision petition. A perusal of the same would show that notice in the appeal was issued on 07.01.2020 and on 11.02.2020, it was reported by the Ahlmad that the copy of the appeal had not been supplied and the appellant(s) was directed to file the said copy and thereafter summons to respondent No.1 were to be issued for 19.03.2020. The order dated 11.02.2020 is reproduced hereinbelow:-

“Present: Sh. Jagtar Singh Adv., for the appellant.

As per report of Ahlmad copy not filed. Appellant is directed to file copy and thereafter summons to respondent be issued for 19.3.2020.

Date of Order: 11.02.2020

(Hardip Singh)

Addl District Judge

Amritsar, UID No. PB0638”

5. In spite of the case having been pending from 11.02.2020 to 20.12.2024 and in spite of numerous opportunities having been granted, the appellant(s) did not supply the copy of the appeal and accordingly, summons were not issued to respondent No.1 and respondent No.1 was not served. It was specifically recorded in the orders dated 21.01.2021, 18.08.2021, 11.11.2021, 11.04.2022, 14.07.2022, 17.10.2022, 10.01.2023, 05.04.2023, 18.07.2023, 21.08.2023, 07.11.2023, 09.02.2024, 17.05.2024,



21.08.2024, 11.10.2024, and 20.12.2024 that fresh notice be issued to respondent No.1 on supply of copy of the appeal. In spite of those orders, the appellant(s) chose not to supply the copy of the appeal and thus, summons could not be issued to respondent No.1. The First Appellate Court, in view of this Court, was very liberal, as in the said circumstances the appeal of the petitioner(s) deserved to be dismissed for non-prosecution. The order dated 11.10.2024 is reproduced hereinbelow:-

“Present: Sh. Ajay Sharma Advocate for the appellant.

As per report of the ‘Ahlmad’ concerned, summons to the respondent not issued on account of non-filing of copy of appeal. Adjournment requested. Learned counsel for the appellant is directed to file copy of appeal within 10 days and on filing of the same, notice to the respondent be issued for 21.12.2024 through registered post.

Date of Order: 11.10.2024

(Sushma Devi)

Additional District Judge,

Amritsar

UID NO . PB0245”

6. The first appeal filed before the First Appellate Court is now listed for 28.02.2025.

7. Since the appellant(s) (petitioner(s) herein) had not supplied the copy and was not thus, pursuing the appeal and there was no stay operating in his favour and apparently, the petitioner(s) had also not paid the arrears of rent thus, vide order dated 03.12.2024, the warrants of possession as well as warrants of attachment had been issued for 21.12.2024. The warrants of possession were issued in order to execute the order of ejectment and warrants of attachment were issued for recovery of the rent. It is the said



order dated 03.12.2024 which is sought to be challenged in the present revision petition.

8. A perusal of the above said facts would show that the present petitioner(s) have taken the Court proceedings for a ride and after having filed the appeal in the year 2019, in which notice was issued on 07.01.2020, had not chosen to file the copy of appeal for the purpose of service of respondent No.1-plaintiff for a period of more than four years. Apparently, even the arrears of rent at the rate of Rs.25/- per month w.e.f. 04.09.2011 have not been paid and it is for the said reason that the warrants of attachment have been issued. The ejectment order, which had been passed in the year 2019, has not been executed till date and thus, the warrants of possession have been issued after a period of more than five years. Since, there is no stay order in favour of the petitioner(s), thus, the impugned order dated 03.12.2024 passed by the Executing Court is in accordance with law.

9. Keeping in view the abovesaid facts and circumstances, this Court finds that the impugned order dated 03.12.2024 is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

15.02.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No