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

CR-5966-2024 (O&M)
Date of decision: 13.02.2025

Jagan Nath and others

...Petitioners

Versus

Paramjit Singh Marwaha (deceased) through his LR Amit Marwaha

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Krishan Singh Dadwal, Advocate for the petitioners.

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 15.11.2016 (Annexure P-3) passed by the Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Hoshiarpur whereby the objections filed by the petitioners have been dismissed.

2. Learned counsel for the petitioners has submitted that it is the petitioners who are the owners of the suit property and has submitted that there are documents of title in favour of the petitioners and that the property in question is situated in khasra No.268. It is submitted that thus, the objections filed by the present petitioners be allowed and the execution application filed by the respondent-landlord be dismissed.

3. This Court has heard learned counsel for the petitioners and has perused the paper book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless,



deserves to be dismissed for the reasons detailed hereinafter.

4. The present petitioners are the Judgment Debtors. The respondent-Paramjit Singh Marwaha had filed an application under Section 13 of the East Punjab Urban Rent Restriction Act for ejectment of the present petitioners along with other persons from the property in question. The said rent petition was filed in the year 2001. Vide judgment dated 01.04.2010, the ejectment petition was allowed and the petitioners along with other persons in the ejectment petition were directed to vacate the premises in question and to hand over the same to the respondent-landlord within a period of two months from the date of passing of the said order. In the said ejectment petition, the petitioners had disputed the relationship of landlord and tenant and had also stated that the Rent Controller had no jurisdiction to try the application and accordingly, issues No.1A and 1D were framed. The stand of the petitioners even before the Rent Controller was to the effect that it is the present petitioners who are the owners of the property. After considering the entire evidence on record and also the earlier judgment passed in an earlier case, in which it was held that it was the father of the respondent-Paramjit Singh Marwaha who was the owner of the property in question, the Rent Controller had decided both the said material issues i.e., issues No.1A and 1D in favour of the respondent-landlord and had ordered the eviction.

5. The petitioners No.1 and 2 had filed an appeal against the said judgment and decree dated 01.04.2010 and on 18.03.2014, the said appeal was dismissed. In para 14 of the said judgment, the argument raised on behalf of the petitioners No.1 & 2 to the effect that it is the petitioners who are the owners of the property in question on the basis of documents produced by



them was considered by the First Appellate Court and it was observed that the present petitioners (appellants before the Appellate Authority) had not been able to prove that the property which was the subject matter of the eviction petition bears Khasra No.268 and that the said property is the same property which is subject matter of the sale deeds Ex.D1 to Ex.D3 produced on behalf of the present petitioners. Reference was also made to the cross-examination of DW2, who had admitted that *khokha*, which was the property in question, belonged to Hukam Singh who was the father of the respondent-landlord and that the predecessor-in-interest of the petitioners used to pay rent to Hukam Singh and thus, the relationship of landlord and tenant was duly established. The First Appellate Court had also observed that the petitioners were in arrears of rent since May, 2000.

6. Thereafter, the petitioners No.1 and 2 had filed a revision petition bearing No.CR-4871-2014 before this Court challenging the said judgments which was also dismissed on 22.01.2015 and the argument which is now sought to be raised before this Court with respect to the ownership of the present petitioners of the property in question, was rejected and the judgments of the Rent Controller as well as the Appellate Court were upheld. In spite of the above, in the execution proceedings, the petitioners had raised the same objections, which were also rejected by the Executing Court by observing that the said stand of the petitioners had been rejected upto the High Court and the Executing Court was bound to execute the decree and it was not open to the petitioners, who are the Judgment Debtors, to raise the pleas which were finally adjudicated in the trial. Accordingly, fresh warrants of possession of the demised premises were issued for 04.01.2017. It is the said order of the



Executing Court which is sought to be challenged before this Court. The same is in accordance with law and deserves to be upheld. The argument raised on behalf of the petitioners deserves to be rejected as it could not be disputed that the arguments raised before this Court and before the Executing Court had already been raised and rejected by the Rent Controller, Appellate Authority as well as by this Court in the revision petition filed by the petitioners No.1 & 2 challenging the eviction orders. It is settled law that the Executing Court is required to execute the decree and it is not open to the Judgment Debtors to raise the pleas which have already been considered and rejected in the original proceedings.

7. From the abovesaid facts, it is apparent that the petitioners have been able to linger on over the possession of the property in question in spite of the fact that the rent petition which was instituted by the respondent-landlord in the year 2001 had culminated in his favour in the year 2010 and even the appeal and revision arising therefrom had been decided in the year 2015. The present petition is thus, completely devoid of merits and deserves to be dismissed.

8. Keeping in view the above-said facts and circumstances, this Court is of the view that the impugned order has been correctly passed and deserves to be upheld and the revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

9. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

13.02.2025*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**