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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-1729-2020

Date of decision : 19.02.2026

Mohammad Nadeem

... Petitioner

Versus

Dinesh Kumar and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Aakash Singla, Advocate
for the petitioner.

Mr.Sunny K. Singla, Advocate
for respondent no.1.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 06.03.2020 passed by the Civil Judge (Jr.Div.), Malerkotla, vide which the objection application dated 28.02.2020 (Annexure P-4) filed by the petitioner/third party has been rejected.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that respondent no.2, who is the landlord, had sought eviction of respondent no.1, who is the original tenant and vide judgment dated 30.01.2017 the order of eviction was passed. It is submitted that subsequently the execution



petition was filed and in the execution proceedings, the possession was taken by the said landlord on 11.05.2017 and thereafter respondent no.2 executed a registered lease deed dated 14.06.2017 in favour of the present petitioner and thus, the petitioner became the tenant of the premises in question. It is submitted that subsequently respondent no.1 filed an application for recalling the order of warrants of possession, which was allowed and the said order was recalled on 11.05.2017 but since respondent no.2 had already taken possession, thus, he had the right to give possession to the present petitioner. It is submitted that respondent no.1 had also filed an application to restore the possession of the shop in dispute in which the present petitioner had filed objection to the effect that it is the present petitioner, who is in possession by virtue of the registered lease deed dated 14.06.2017 but the said objection has been dismissed vide impugned order dated 06.03.2020. It is submitted that the said order is against law and deserves to be set aside and the respondent no.1's application for seeking restoration of possession deserves to be dismissed.

ARGUMENTS ON BEHALF OF RESPONDENT NO.1

3. Learned counsel for respondent no.1, on the other hand, has submitted that as per the judgment dated 30.01.2017, respondent no.1 was granted two months to pay arrears of rent and prior to elapsing of said time, on 28.03.2017, respondent no.1 had deposited Rs.10,380/- in the Government Treasury. It is submitted that however in spite of above, respondent no.2 filed execution petition and the Executing Court without



issuing any notice, issued warrants of possession, without verifying whether respondent no.1 had deposited the amount in compliance to the order dated 30.01.2017. It is submitted that the recalling of said order of warrants of possession was sought on 11.05.2017 and the same was recalled yet the landlord-respondent no.2 had taken possession. It is submitted that the primary reason for dismissal of the application for restoration was that there was deficiency of Rs.1485/- in the deposit made by respondent no.1 and the said amount was later deposited but since the application for restoration of possession was dismissed, respondent no.1 filed CR-6959-2017 which was allowed vide order dated 08.01.2020 and the Executing Court was directed to restore possession to the tenant within a period of one month from the date of said order. It is submitted that the said order has attained finality as no challenge was made by respondent no.2 to the same.

4. It is argued that in pursuance of the said order, restoration application was again filed in which the petitioner whose alleged lease deed is hit by the doctrine of lis pendens has filed frivolous objections. It is submitted that as per his instructions the present petitioner is a relative of respondent no.2 and a perusal of the lease deed (Annexure P-1) would show that the petitioner is shown to be the grand son of Mohd. Ismail and respondent no.2 is shown to be the son of Ismail, although purposely the word "Mohd." was not mentioned in the same. It is argued that the factum that rights were created by respondent no.2-landlord in favour of the petitioner during the pendency of the proceedings is also apparent from the



fact that even the judgment dated 30.01.2017 was challenged by respondent no.1 on 23.02.2017 as well as respondent no.2 on 28.02.2017 by filing two separate appeals, which were ultimately decided on 28.08.2018 and thus, the deed which was executed on 14.06.2017 would be hit by the principle of lis pendens.

ANALYSIS AND FINDINGS

5. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that the impugned order vide which the objection of the petitioner has been dismissed is in accordance with law and deserves to be upheld and the present petition deserves to be dismissed for the reasons stated hereinafter.

6. It is not in dispute that respondent no.2 had filed rent petition no.15 dated 13.08.2014 against respondent no.1 under Section 13 of the East Punjab Urban Rent Restriction Act. The further facts are apparent from the bare reading of the order dated 08.01.2020 passed in CR-6959-2017 which was filed by respondent no.1 in which respondent no.2-Abdul Rashid-landlord was a party. A perusal of order dated 08.01.2020 would show that it had been noticed that the claim of the landlord was that the rent of the demised premises was Rs.5000/- per month with an increase of 5% per year, whereas the tenant (respondent no.1) had stated that the rent was Rs.2500/- per month and the Rent Controller had made a provisional assessment of rent @ Rs.3500/- per month along with house tax, interest and cost and that the said provisional assessed rent was deposited by



respondent no.1. It was further observed that while finally adjudicating the case, the Rent Controller had assessed the rent payable as Rs.5000/- per month although the increase clause was held not to be enforceable and had further given directions to respondent no.1 to pay arrears of rent within two months. Thus, the said rent petition was finally decided vide judgment dated 30.01.2017. Paragraph 17 of the said judgment, which is relevant, is reproduced hereinbelow:-

“17. Perusal of the file reveals that the respondent has paid the rent at the rate of Rs.3500/- per month along with the house tax. Since, the respondent has been found to be as tenant @ of Rs.5000/- per month therefore, he is directed to pay the rent at the rate of Rs.5000/- per month along with house tax and interest as per the rent note dated 07/01/2010. The rent already tendered by the respondent be adjusted accordingly. It is further mentioned that in case the respondent failed to pay the rent as per the direction of this Court, within the period of 2 months, in that eventuality, the respondent is liable to be ejected on the ground of arrears of rent. Therefore, issue No.1 to 3 are hereby decided against the respondent and in favour of the petitioner/applicant.”

7. From the said order dated 08.01.2020 (Annexure P-6), it is further apparent that within a period of two months, respondent no.1 (tenant) had deposited an amount of Rs.10,380/- on 28.03.2017 which as per him was the amount due. However, in spite of the same, respondent no.2 (landlord) filed an execution petition and the Executing Court without issuing notice and verifying as to whether the amount had been deposited or



not, on 10.04.2017 had passed the following order:-

“Report of Ahlmad seen. As per the report of Ahlmad no stay order received from Appellate Court and the present execution has been filed within period of one year from the date of passing Decree. It be registered.

Accordingly, warrants of possession be issued for 20.5.2017.”

8. The tenant filed an application for recalling the warrants of possession on 11.05.2017, which was also allowed vide order dated 11.05.2017 and the said order is reproduced hereinbelow:-

“Report of Ahlmad received vide which it is stated that warrants of possession was issued on 20.5.2017. As per the report of Nazir, no entry in the Civil Deposit Register regarding the deposit of any amount is mentioned/registered in Civil Deposit Register and report of ATO Malerkotla be called.

Since at this stage, it cannot be ascertained as to whether JD has complied with the orders of this court or not, therefore, warrants of possession, already issued be recalled for the time being and report of ATO Malerkotla be called for the date already fixed i.e 20.5.2017.”

9. However, it had also been noticed that on the same date i.e., 11.05.2017, respondent no.2 (landlord) had taken possession and accordingly, respondent no.1 (tenant) had no other option left but to file an application for restoration of said possession, which was dismissed by the Court on the ground that there was a deficiency of Rs.1485/- in deposit of



the arrears of rent. It had further been recorded that the tenant had deposited the said amount of alleged deficiency of Rs.1485/- also, and thereafter, against the dismissal of the application for restoration of possession, respondent no.1 (tenant) had filed CR-6959-2017 and the Co-ordinate Bench of this Court after noticing the abovesaid detailed facts and circumstances allowed the same with the following observations / directions:-

“This Court has heard learned counsel for the parties at length and with their able assistance gone through the paper book. In the considered view of this Court, the revision petition is liable to be allowed on the following two grounds:-

- i) There are no subsisting warrants of possession in favour of the landlord, particularly, when on 11.5.2017 warrants of possession already issued stood recalled. Therefore, the landlord has no right to remain in possession.*
- ii) From the reading of the judgment passed by the Court on 30.1.2017 while finally deciding the ejectment petition it is apparent that the Court failed to assess the amount of house tax, interest and the cost, required to be paid by the tenant to the landlord. In such a situation, tenant made his own calculation and deposited the amount within the time prescribed i.e Rs.10,380/- on 28.3.2017 i.e within the time prescribed. In such situation, the Executing Court without noticing that some amount has been deposited, proceeded to issue warrant of possession. When this fact was brought to the notice of the Court, the warrants of possession were in fact revoked after realizing error. However, it was too late. In these circumstances, the Executing Court committed an error*



in refusing to restore the possession to the tenant. As per East Punjab Urban Rent Restriction Act, 1949, the Rent Controller is not only required to assess the rent but is also required to assess the amount representing house tax, interest for delayed payment and the cost payable by the tenant. In the present case, the Rent Controller has not assessed either the house tax or the interest payable or the cost.

Keeping in view the aforesaid facts, the deposit of remaining amount of Rs.1485/- by the tenant is considered to be deposited within time. The time granted by the Rent Controller shall stand extended. The Executing Court is directed to get the possession restored to the tenant within one month from today. However, this order would be subject to the decision of the first appeal filed by the tenant.”

10. It was observed that the tenant had deposited the amount within the time prescribed after making his own calculation and the Executing Court without noticing that some amount had been deposited, proceeded to issue warrants of possession and thereafter, after realizing its mistake had recalled the said warrants of possession and thus, in the said circumstances, it was observed that the Executing Court had erred in not restoring the possession of the tenant (respondent no.1). Accordingly, directions were issued to the Executing Court to get possession restored to the tenant (respondent no.1) within one month from the date of passing of the order. It is not in dispute that said order dated 08.01.2020 has attained finality as the same has not been challenged. In the said order, the predecessor-in-interest



of the present petitioner i.e., respondent no.2 was a party. In pursuance of the said order, respondent no.1 filed an application seeking possession. The present petitioner filed objections, which were dismissed by the Executing Court by observing that since the petitioner had taken possession from the landlord (respondent no.2) against whom the order passed by the Hon'ble High Court dated 08.01.2020 had attained finality, thus, the present petitioner was also bound by the said order. It was further stated that the Executing Court was bound to deliver possession of the demised premises to respondent no.1 in pursuance of the order passed by the High Court. The said order is in accordance with law and deserves to be upheld.

11. It would also be relevant to note that against the judgment dated 30.01.2017, respondent no.1 as well as respondent no.2 had filed appeals which were instituted on 23.02.2017 and 28.02.2017 respectively and were finally decided on 28.08.2018. Thus, respondent no.2 had executed the alleged lease deed dated 14.06.2017 in favour of the petitioner during the pendency of his appeal. Further a perusal of the abovesaid facts and circumstances would show that respondent no.1 had been pursuing his rights and apart from challenging the order dated 30.01.2017 within limitation, had also in compliance to the same, after carrying out his own calculations as there were no specific calculations made by the Rent Controller vide order dated 30.01.2017, made a deposit within the time given by the Rent Controller. Respondent no.2 (landlord) had apparently in order to defeat the right of the respondent no.1 got the possession of



property on 11.05.2017, although the warrants of possession order was recalled on the same date and had immediately thereafter executed the alleged lease deed in favour of the present petitioner on 14.06.2017 in spite of the fact that lis was very much pending. It is the argument of respondent no.1 that in fact the petitioner and respondent no.2 are relatives. Be that as it may, once the order dated 08.01.2020 of the Co-ordinate Bench of this Court had attained finality and the predecessor-in-interest of the petitioner was party to the same, it was incumbent duty of the Executing Court to have complied with the directions given in the said order dated 08.01.2020. The petitioner had to sink with respondent no.2 who had suffered the order dated 08.01.2020. The Executing Court has rightly observed that the Executing Court cannot go beyond the judgment dated 08.01.2020 (Annexure P-6) given by the Revisional Court. The said order is legal and valid.

12. The Hon'ble Supreme Court in the case of "***Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil***", reported as **(2010) 8 Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227, but at the same time, it must be



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remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

13. Keeping in view the above said facts and circumstances, the present revision petition is dismissed.

(VIKAS BAHL)
JUDGE

February 19, 2026.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No

