
(1986) 10 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : C.O.C. Petition No. 228 of 1986

Harbans Lal Sabharwal

APPELLANT

Vs

Sham Lal and another

RESPONDENT

Date of Decision : 07-10-1986

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 47

Citation : (1987) 2 RCR(Rent) 23

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : H.L. Sarin and Miss Jaishree Thakur, for the Appellant; Anand Sarup and Shri Ajai Tewari, for the Respondent

Final Decision : Dismissed

Judgement

J.V. Gupta, J.—This petition has been filed on behalf of the landlord under the Contempt of Courts Act (hereinafter called the Act), on the allegations that the Respondents had violated the undertaking given by them in the affidavit dated June 4, 1986, of Sham Lal, Respondent., wherein it was stated that he shall hand over the vacant possession to the landlord after the expiry of the period as ordered by the High Court subject to the decision in the appeal filed by him in the Supreme Court. Admittedly the SLP in the Supreme Court was dismissed on June 5, 1986. In spite of that, in the execution proceedings taken by the landlord, the Respondents filed false and frivolous objections u/s 47, Code of Civil Procedure, in order to delay their ejection. Thus, they violated the undertaking and are liable to be punished under the Act. In the reply filed on behalf of the Respondent, the plea taken is that Baldev Raj who is said to be one of the landlords, had entered into a fresh tenancy with them on August 1, 1986 and, therefore, they were not required in law, to surrender the vacant possession of the shop to Harbans Lal Sabharwal, the Petitioner. On September 18, 1986, Sham Lal, Respondent, was present in Court and he undertook to vacate the premises and to hand over the possession to the landlord-Petitioner on his behalf

as well as on behalf of his brother Joginder Lal and also to pay all the arrears of rent up to date. The case was then adjourned to October 1, 1986.

2. It is no more disputed that on September 27, 1986, vacant possession of the premises, No. 5577, Saudagar Bazar, Ambala Cantt. has been handed over to the Petitioner and he also received the rent thereof up to date.

3. On September 24, 1986, Civil Miscellaneous Application No. 4643-CII of 1986, was filed on behalf of the Respondents in which it was prayed that Harbans Lal Sabharwal, the Petitioner, be directed to take vacant possession of the shop after the tenants have removed their corrugated sheets and the shutter. Notice of the said application was given to the counsel for the present Petitioner. Counsel for both the parties are agreed that this dispute between the parties cannot be decided in this petition. Consequently, the said civil miscellaneous application is dismissed.

4. Prima facie, there was a violation of the undertaking given by the Respondents in the affidavit of Sham Lal, Respondent, dated June 4, 1986, but as soon as they put in appearance in this Court, they agreed to vacate the premises and to hand over the vacant possession and also to pay all the arrears of rent up to date. Admittedly, this has been done on September 27, 1986. Under the circumstances, no further action is called for.

5. Consequently, this petition fails and is dismissed. However, the Petitioner will be entitled to the costs which are assessed at Rs. 1,000/-.