
(2012) 03 P&H CK 0223
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1401 of 2012 (O and M)

Sewa Singh

APPELLANT

Vs

Gurdial Singh

RESPONDENT

Date of Decision : 05-03-2012

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 13B

Citation : (2012) 03 P&H CK 0223

Hon'ble Judges : G.S. Sandhwalia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S. Sandhwalia, J.

CM No. 6000-CII of 2012

1. Application for exemption from filing certified copies of Annexures P-1 to P-3 is allowed in view of the averments made in the application which is duly supported by an affidavit.

C.R. No. 1401 of 2012

2. The present revision petition is directed against order dated 29.07.2010 passed by Rent Controller Phagwara and orders dated 24.01.2012 and 22.2.2012 passed by Additional District Judge, Kapurthala.

3. It is interesting to note that the ejectment petition was filed u/s 13B of the East Punjab Urban Rent Restriction Act, 1949 (for brevity, the "Act") and the same was allowed on 9.4.2005, after framing of issues and leading evidence. That order was challenged before this Court in Civil Revision which was dismissed on 3.2.2006. Objections were filed by the tenant and the same were dismissed by the Rent Controller on 24.4.2007 which order was not challenged. The tenant also filed civil suit on 16.5.2007 challenging the order dated 9.4.2005 passed by learned Rent Controller, Phagwara. Thereafter, the second objections were filed

on 12.6.2007 by objecting to the warrant of possession issued. The Civil Judge (Jr. Divn.)/Rent Controller dismissed the objections with special costs of Rs. 1000/- . Noticing the above facts, the appeal filed before the Appellate Authority-cum-Addl. District Judge, Kapurthala has been dismissed.

4. In execution, warrant of possession has now been issued for 10.3.2012. The orders passed hereby in appeal which has been dismissed and the warrant of possession issued for 10.3.2012 is the subject matter of the present revision petition. The said facts go on to show that the tenant has been successful in retaining the possession for the last more than six years after the civil revision was dismissed by this Court on 03.02.2006. As noticed above ejectment was not ordered in summary proceedings but after leave to appeal had been granted and evidence led and now the submission is that property in question was not the ownership of the landlord. Once the said issue had been decided after leading evidence, it does not lie in the mouth of the tenant to raise such objection. He wants to delay the matter by challenging the orders which goes to show that Civil Judge-cum-Rent Controller has rightly imposed special costs. The special costs are also a mode to penalise rather the exemplary costs should have been imposed but the Court is not doing so because the revision is being dismissed in limine.

5. The petition is totally misconceived and is dismissed accordingly.