

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

**CR-5098-2002(O&M)
Date of decision: 30.11.2022**

Raj Rani and another

... Petitioners

Versus

Vidya Wati (dead) through LRs

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: None for petitioners.
Ms. Neha Jain, Advocate, for the respondent(s).

ARUN PALLI, J. (ORAL)

The tenant is in revision before this Court against an order of eviction dated 28.04.2000, passed by the Rent Controller, which was affirmed by the appellate authority as a consequence of dismissal of the appeal filed by the tenant on 09.08.2002.

The matter is pending, post admission, since 17.09.2004. It would be apposite, at the outset, to refer to the order dated July, 24, 2014, passed by this Court:

“Learned counsel for the respondent states that the premises in dispute is lying locked as the petitioners have abandoned it. He further states that no rent had been paid to the respondent for the last many years.

If that be so, then evidently the petitioners are not entitled to stay in the premises without satisfying the rent component.

The factum of the rent having not been deposited is not disputed by the petitioners. Tenant, who does not pay the rent, has no moral authority to occupy the premises as this shakes the very root of the relationship of a landlord and tenant of which rent component is the bedrock. The petitioners, therefore, are not entitled to

the benefit of interim order. Vide order dated 17.10.2002, the execution of the ejectment order had been stayed. The same is hereby vacated for the reason that the tenant could not have persisted in occupation of the premises without discharging the legal liability of payment of rent to retain the premises. Once this fact is admitted and no justification shown for not depositing the rent, it would be travesty of justice to permit the petitioners to continue in the premises without discharging of their legal obligations. This Court had granted time to the petitioners on 16.7.2014, but instead of making any attempt to pay the rent, there has been no explanation except a candid admission that the rent has not been paid.

Interim orders granted in favour of a person is an equitable relief based entirely on the principles of substantial justice, equity and fair play but if the benefit granted results in a situation where acute prejudice is caused to the respondent on account of the willful default of the person enjoying the benefit of the restraint order without complying with the obligations clause, then in such an eventuality the benefit of the interim restraint orders have to be withdrawn to restore and balance the scales of equity.

Adjourned to 17.9.2014 for arguments.

In the meantime, the Executing Court is directed to proceed with the matter forthwith and ensure that the orders of the Courts below are executed even if police help has to be restored to in the first instance itself.”

Apparently, for the petitioner-tenant had failed to pay the rent, this Court was constrained to vacate the stay and direct the executing court to proceed with the matter and ensure that the order of ejectment was executed.

Considering the fact that post order dated July 24, 2014 (**Ibid**), a period of eight years had gone by, the Court staff was required to ascertain from the concerned court at Hoshiarpur if the order of eviction had actually been executed. Per information furnished by the Superintendent, District Court, Hoshiarpur, the demised premises was vacated by the tenant and the keys of the shop in question was delivered to Sh. Balraj Kaushal Advocate, counsel for the decree-holder. Accordingly, on the statement of learned counsel for the landlord/decreed-holder, the executing court, vide order dated 18.09.2017, dismissed the petition as withdrawn being fully satisfied. Copy of the said order was forwarded on whatsapp to the Reader of this Court and a print out thereof is placed on record as **Mark 'X'**.

The matter has been called out twice since morning, but none has caused appearance on behalf of the petitioner to pursue the same. It appears that the matter has lost its efficacy with the efflux of time and is rendered infructuous.

The petition is, accordingly, disposed of as having been rendered infructuous.

However, it is made clear that in case any dispute, cause of action or interest still survives, the parties shall be at liberty to move appropriate application for restoration of the petition and its decision on merits.

(Arun Palli)
Judge

30.11.2022

Rajan

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO