



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

COPC No.270 of 2019

Decided on: 13th June, 2023

Ravi alias Bachana

...Petitioner

Versus

Pawan Sahni & Ors.

...Respondents

Coram

Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge

¹ *Whether approved for reporting? Yes*

For the petitioner:

Mr. Sudhir Thakur, Senior Advocate
with Mr. Karun Negi, Advocate.

For the respondents:

Mr. K.D. Sood, Senior Advocate with
Mr. N.K. Bhalla and Mr. Het Ram
Thakur, Advocates.

Jyotsna Rewal Dua, Judge

The petitioner alleges violation of directions contained in the decision dated 17.03.2016, rendered by this Court in Civil Revision No. 21 of 2016 (Ravi alias Bachana Vs. Pawan Sahni and others). The grievance of petitioner is that the respondents-landlords have not commenced the construction of the premises in question within the timeline indicated in the judgment.

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

2. Facts

2(i). The respondents-landlords had filed Rent Petition No. 36/2 of 2007. The same was partly allowed by the learned Rent Controller on 13.06.2014 on the ground of bonafide requirement of the premises for reconstruction by the landlords. However, the petition was dismissed on the ground of non-payment of rent. The landlords (present respondents) as well as the tenant (present petitioner) filed their respective appeals against the order passed by learned Rent Controller before the learned Appellate Authority. The appeals were decided on 03.10.2015. The appeal preferred by the petitioner-tenant was dismissed, whereas, the appeal preferred by the respondents-landlords was allowed.

2(ii). Aggrieved against the decisions in the rent petition and the appeals, the petitioner-tenant preferred Civil Revision No.21 of 2016 before this Court. The matter came up for hearing on 17.03.2016, when under instructions, submission was made on behalf of the petitioner-tenant that he is ready and willing to vacate the premises within a period of four months. Taking note of this submission, the revision petition was disposed of with the following directions: -

“2. In view of this the present petition is disposed of with a direction the petitioner to hand over the vacant possession of the premises to the landlords within a period of four months from today. Thereafter, the landlord shall commence the construction within a period of six months and complete the same within a further period of one year after obtaining the statutory permissions. The tenant shall be re-inducted in the demised premises after one month of the construction of the building in the same place, location and area equivalent to the area which was in occupation of the tenant before the orders were passed by the Rent Controller. The rate of rent after the induction of the tenant by the landlord would be determined as per the law laid down by their Lordships of the Hon’ble Supreme Court in *Syed Jameel Abnbas and others Vs. Mohd. Yamin alias Kallu Khan, (2004) 4 SCC 781*. Pending application(s), if any, also stands disposed of. No costs.”

3. According to learned senior counsel for the petitioner-tenant, the landlords though are now in possession of the premises, however, they have neither demolished the premises nor have they commenced the construction, therefore, they have committed contempt of the judgment dated 17.03.2016. Whereas, according to the learned senior counsel for the respondents-landlords, the petitioner-tenant did not deliver the possession of the premises to the landlords in terms of his undertaking, on the basis of which, the

judgment was passed on 17.03.2016, therefore, he cannot be permitted to complain about the alleged contempt of the judgment as the petitioner himself had violated the judgment dated 17.03.2016.

4. I have **heard** learned counsel for the parties and considered the material available on record.

5. In the judgment dated 17.03.2016, there was a clear-cut direction to the petitioner-tenant to handover the vacant possession of the premises to the respondents-landlords within a period of four months from 17.03.2016. It was thereafter, that the landlords were to commence the construction within a further period of six months and were to complete the same within a period of one year after obtaining statutory permissions. The petitioner was to be re-inducted in the demised premises after one month of the construction of the building in the same place, location and area equivalent to the area which was in his occupation before the order was passed by the Rent Controller.

5(i) It is not in dispute that the petitioner did not abide by the directions that were issued to him in the judgment dated 17.03.2016. He did not handover the vacant

possession of the premises to the respondents-landlords within the timeline of four months indicated in the judgment.

5(ii) So-much-so, the respondents-landlords had to file the execution petition No. 18/10 of 2016 for execution of the order passed by the learned Rent Controller. The 'Zimni' orders passed in the execution petition placed on record alongwith the reply, show that umpteenth number of opportunities were availed by the petitioner-tenant for filing objections to the execution petition. Taking note of the time and the opportunities availed by the judgment debtor (present petitioner) to file the objections, learned executing Court on 29.08.2017, closed the right of the petitioner-tenant to file his objections and issued warrant of possession against him. This warrant of possession was finally executed on the spot on 28.10.2017.

5(iii) In the aforesaid facts and circumstances when the respondents-landlords were compelled to file execution petition for enforcement of the order passed by learned Rent Controller, the directions issued by this Court in the judgment dated 17.03.2016 passed in Civil Revision No. 21 of 2021, had virtually lost their efficacy. All the directions were

in a chain and flowed from the first direction issued to the petitioner-tenant to vacate the premises within the specified period. This direction was issued based upon petitioner's own undertaking to vacate the premises within the indicated period. Once the petitioner-tenant had not adhered to the timeline indicated in the first direction contained in the judgment, he cannot be heard to complain about violation of the other directions in the judgment and the timeline indicated therein by the respondents-landlords. The dispute which was ordered to be resolved in terms of judgment dated 17.03.2016, did not work out in that manner. The respondents-landlords had to resort to legal recourse for executing the order passed by the learned Rent Controller. Numerous opportunities were availed by the petitioner-tenant for filing objections to the execution petition. Finally, warrant of possession was issued that was executed on spot, that's how the respondents-landlords got the possession of the premises. The petitioner lost his right to allege any violation of the judgment by the landlords the moment he himself failed to abide by the same.

Consequently, I do not find any merit in the present petition. The same is accordingly, dismissed. The Pending miscellaneous application(s), if any, also stand disposed of.

Jyotsna Rewal Dua
Judge

June 13, 2023

R.Atal

High Court of H.P.