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

**CR-2200-2013(O&M)**

**Date of Decision: 15.09.2025**

Jatinder Kumar

..... Petitioner

*Versus*

Pawan Kumar

..... Respondent

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present:- Mr.Gagneshwar Walia, Legal Aid counsel.  
for the petitioner.

Mr. H.S. Rakhra, Advocate  
for the respondent.

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**HARKESH MANUJA, J. (ORAL)**

By way of present revision petition challenge has been laid to an order dated 23.02.2013 (P-1) passed by the learned Executing Court-cum-learned Additional Civil Judge, (Senior Division), Phul, whereby an execution application preferred at the instance of the petitioner/ landlord was disposed of being fully satisfied.

2. In the present case, the petitioner being landlord sought eviction of the respondent/ tenant from the demised shop. The description of the property given by the petitioner/ landlord in his eviction petition is extracted hereunder:-

*“Petition under Section 13 of The East Punjab Urban Rent Restriction Act, 1949’ for ejectment of the respondent No.1 from the shop and Hatta situated in Mandi Phul and bounded as under:-*

*East: Hatta of the shop in dispute*

*West: Road*



*South: Shop of Shri Balwinder Singh Rajinder  
Singh of Phul  
North: Shops of Shri Tilak Ram Kapur Chand  
etc.”*

The learned Rent Controller, Phul, vide its decision dated 22.02.2007 ordered eviction of respondent/ tenant on the ground of bonafide need of the petitioner/ landlord. Aggrieved thereof, respondent/ tenant filed an appeal which was allowed by the learned Appellate Authority on 17.10.2007.

3. Being aggrieved of the order dated 17.10.2007, the petitioner/ landlord approached this Court in a revision petition which was allowed vide order dated 17.08.2009, restoring the order of eviction passed against the respondent/ tenant. The SLP preferred at the instance of respondent/tenant was dismissed by the Hon'ble Apex Court on 15.03.2010. In view thereof, the petitioner/ landlord filed the eviction petition wherein the possession of the demised premises was restored to him on 13.09.2010 and thereafter the execution petition was disposed of being satisfied by the learned Executing Court-cum-Additional Civil Judge (Senior Division), Phul vide its order dated 23.02.2013.

4. The grievance of the petitioner is that he has not been handed over complete physical possession of the demised premises. Learned counsel for the petitioner submits that the total area regarding which the eviction was sought happened to be measuring 14' x 43' ; whereas the possession of 10½' x 43' area only was handed over to



him. He thus submits that the order passed by the learned Executing Court was required to be set aside.

5. I have heard learned counsel for the parties and gone through the paper-book. The present revision petition came to up for hearing before this Court on 28.05.2015 and this Court was pleased to pass an order directing the learned Executing Court to determine certain questions and the relevant portion thereof is extracted hereunder:-

*“After going through the record, it appears that the shop of the petitioner is adjacent to shop of Sadhu Singh on one side and the shop of Jagdamba Emporium on another side. It will not be appropriate for this Court to determine the disputed question of fact at this stage but taking into consideration the fact that all the questions arising between the parties to a suit or eviction proceedings before a Tribunal in which decree/ ejection order is passed shall be determined by the forum executing the decree and not by a separate suit. All questions relating to execution, discharge or satisfaction of the decree are to be determined by Executing court. The Executing Court appears to have adopted an evasive approach to perform that statutory duty. In the interest of justice, I deem it appropriate to refer the matter to the Executing Court for determination of following questions:-*

- i) What was the area and description of the shop/ premises rented out by the petitioner to his tenant which forms subject matter of the ejection proceedings as per the pleadings and evidence constituting part of the record?*
- ii) Whether the petitioner has been delivered possession of lesser area (constructed or*



*otherwise) to the extent of 443 sq. yards, as claimed by him?*

- iii) If question No.(ii) is proved, then as to who is/ are in possession of the original area of the rented shop/ premises which was the subject matter of the ejectment proceedings to the extent of 443 sq. yards as per the present demarcation.*
- iv) Whether it is the judgment debtor or decree holder or anyone else responsible for the delivery of alleged deficient area to the third party, if any?*
- v) Whether there is any other litigation pending pertaining to the tenanted premises, if so, what is its effect on the present execution application?*

*It is observed that it will be open to the Executing Court to take assistance of the judgment debtor (including his heirs or representatives), decree holder- petitioner, the original record, the revenue authorities and police authorities/ SSP, to determine if the portion belonging to the petitioner is in possession of any unauthorized occupant. It will be open to the Court, in the interest of justice, to suo motu summon any witness relevant for adjudication of the controversy mentioned hereinabove.*

*A period of three months is granted to the learned Executing Court to determine the above said questions. In case the judgment debtor or decree holder file any application to facilitate the adjudication, it will be the discretion of the Court to take the same into consideration. It is also left open to the Executing Court to frame any other additional question if it is deemed appropriate.*

*For awaiting the report, to come up on October 13, 2015.*



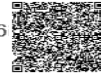
*Copy of the order be sent to the Court concerned.*

*The petitioner and judgment debtor in person or through their representatives will appear before the Executing Court on July 4, 2015. Period of three months will be calculated after said date of hearing.”*

In pursuance thereof, learned Executing Court having granted opportunity to both the sides, submitted its report dated 07.11.2015. The relevant portion therefrom is extracted hereunder:-

*“The report on the asked points is as under:-*

- (i) The area of shop/ premises rented out by the petitioner to his tenant is 66.80 sq. yards and description of the said shop/premises is as Point A to B = 44'-9", from Point C to D = 44'-6", from Point B to C = 13'.10.5" and from Point D to A 13'-9". The total area is 66.80 sq. yards. It is further submitted that petitioner has not given any description of the area, which he had rented out. The copy of rent petition and judgment/order, **Annexure-D** and **Annexure-E** are attached herewith for ready reference. It is also relevant to mention here that the Decree Holder did not produce any sale deed qua the suit property.*
- (ii) The petitioner has been delivered possession of 66.80 sq. yards i.e. disputed shop and 217 sq. yards i.e. Ahata as per report submitted by Sh. Mahesh Kumar, J.E., which total comes to 283.80 sq. yards. Further more, the petitioner has not produced any document regarding the ownership of his property despite directed by the court. It is relevant to mention here that the Decree Holder claims to be the owner of area more than 443 sq. yards, but, as a matter of fact,*



*the erty in dispute is only 283.80 sq. yards. Therefore, the delivery of possession of property of 443 sq. yards does not property arise.*

- (iii) *There is no property of the petitioner to the extent of 443 sq. yards, as per finding on issue No.1 the total area is 283.80 sq. yards and the possession of the same has already been delivered to the decree Holder and at present the shop/premises in dispute is lying vacant and in possession of the Decree Holder. It is also worthwhile to mention that Udham Singh, who is owner of the adjoining shop is owner of land measuring 29' X 45', which he had purchased through two sale deeds on dated 12.08.1986 and 13.08.1997, which are **Annexure-F** and **Annexure-G** and as per the report submitted by J.E., the total area in the possession of Paramjit Singh son of Udam Singh is now 28'.9" X 44'.9" and Balwinder Singh son of Sadhu Singh, whose shop is situated on the Eastern side, shown to be the area 13.7" X 44'.6". As such, from the measurement, it cannot be concluded that the shop adjoining to the shop in dispute have any encroach upon the shop in dispute.*
- (iv) *No one is responsible for the delivery for the alleged deficient area to anyone, as there is total area of petitioner is 283.80 sq. yards, possession of which has already been delivered to the Decree Holder. More importantly, the D.H. has not produced any sale deed to arrive at a conclusion that the Decree Holder has got less area, than he delivered to the Judgment Debtor.*
- (v) *It is here relevant to mention that when the Decree Holder was asked to give the detail of pending qua the suit property, he openly refused to provide any information of the pending*



*litigation, but however, from the statement of Pawan Kumar, L.R. of Krishan Chand, J.D., the information regarding the pendency of the suit was come into notice and on the said information the case file title Om Parkash Vs. Jatinder Kumar was also summoned, which is pending between the party qua the suit property. As per the facts of the pending case are that Lok Raj and Hari Dass sons of Jagat Ram were the owners of the Ahata and shop bearing M.C. No.B-16/12 and they rented out the said shop and Ahata to Lachhman Dass. Lok Raj was died on 07.05.1993 and his estate was inherited by Rajinder Parkash, Varinder Kumar, Jatinder Kumar (D.H.) and Rekha Rani and Padma Vati. Hari Dass died on 06.02.1989 and his estate was inherited by his three sons namely Shiv Lal Gupta, Ram Lal Nabhi and Raghunandan Parshad Gupta and three daughters namely Sarla Devi, Sheela Devi and Darshna Devi. Sarla Devi d/o Hari Dass expired and her estate was inherited by Asha Rani, Parveen Singla, Satish Mittal and Vinod Mittal. Sheela Devi has also expired and her estate was inherited by Manju Rani, Parveen Rani, Priyanka, Anil Kumar and Parveen Kumar. Ram Lal Nabhi son of Hari Dass also executed a Will in favour of his daughter Prem Lata and Raghunandan Parshad's property inherited by his wife Kailash Vati and his children namely Shashi Bala Jindal, Visakha Gupta, Dinesh Gupta and Naresh Gupta. Further Shiv Lal Gupta son of Hari Dass had gifted his share in favour of Gaushala Committee vide deed No.783 dated 22.05.1995 and the said property was purchased ½ share by Om Parkash i.e. now plaintiff, from legal heirs of Hari*



*Dass, Gaushala Committee, Rampura Phul and Anita Rani wife of Pawan Kumar, vide his sale deeds No.2416 dated 11.08.2010, sale deed No.2227 dated 01.09.2010, sale deed No.2769 dated 13.09.2010, sale deed No.133 dated 09.04.2013. it is further pleaded that Gaushala Committee had sold 9 sq, yards i.e. 7.48 share of the shop vide sale deed dated 12.03.2007 in favour of Anita Rani who further sold it to plaintiff. (the copies of the sale deeds are also annexed herewith the report as Annexure-H, Annexure-I and Annexure-J). Now, the said suit for possession by way of partition, is pending in this court, wherein plaintiff claiming himself to be owner to the extent of ½ share in the suit property. (Copy of the plaint Annexure-K is also attached herewith).”*

6. In view of the aforesaid detailed report, in the humble opinion of this Court, no cause is made out to interfere in the present revision petition especially when in the entire eviction petition, an exact measurement of the area of the demised premises has not been mentioned. The petitioner/ landlord even failed to produce any document of title in his favour so as to establish that the demised premises which was owned by him and was rented out to the respondent/ tenant measured 14' x 43'.

7. Furthermore, a perusal of the record also shows that the demised shop is covered by two other shops from two sides i.e. towards right side shop owned by Paramjit Singh son of Udham Singh and towards left side shop owned by Harpreet Singh son of Balwinder Singh.



8. In such circumstances, especially in view of the detailed report dated 07.11.2015 submitted by the learned Executing Court, no case is made out to interference in the impugned order dated 23.02.2013 passed by the learned Executing Court.

9. The revision petition is dismissed.

10. In view of dismissal of the petition, no orders are required to be passed in CM No. 19315-2015 seeking impleadment of the applicants as respondents. Other Pending misc. application(s), if any, shall also stand disposed of.

11. It is, however, made clear that the petitioner shall be at liberty to avail his other remedies, if any, in accordance with law.

15.09.2025  
sanjay

( HARKESH MANUJA )  
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>