

(2013) 03 P&H CK 0053

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No. 2088 of 2013

Rakesh

APPELLANT

Vs

Roshan Lal and Another

RESPONDENT

Date of Decision: March 26, 2013**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 47
- East Punjab Urban Rent Restriction Act, 1949 - Section 13

Citation: (2013) 171 PLR 63**Hon'ble Judges:** Daya Chaudhary, J**Bench:** Single Bench**Advocate:** Gaurav Tangri, for the Appellant;**Final Decision:** Disposed Off

Judgement

Daya Chaudhary, J.

The prayer in the present revision petition is for setting aside the order dated 29.01.2013 passed by Civil Judge (Junior Division), Jalandhar, vide which, warrants of possession have been issued with the order to break open the locks of the shop without taking any decision on the objections filed by the petitioner. Learned counsel for the petitioner submits that the objections were filed by the petitioner and no decision whatsoever was taken on the objections and impugned order has been passed which is contrary to the provisions of Section 47 CPC. Learned counsel for the petitioner also relies upon the judgments of this Court in [Santosh Singh Vs. Amar Kaur and Others](#), Avtar Singh v. State Bank of Patiala, 1993(1) Cur.L.J. 195, M/s Woolen Shops and another v. Central Bank of India and others, 1990(2) Cur.L.J. 38, [Charanjit Singh and Another Vs. Monmohan Singh and Others](#) and [Chhotu Vs. Chhotu](#) in support of his contention.

2. Heard arguments of learned counsel for the petitioner and have also perused the impugned order as well as zimni orders which are on record.

3. In the present case, respondents filed a petition u/s 13 of East Punjab Urban Rent Restriction Act for ejectment of petitioner from shop on the ground of subletting. Vide order dated 09.10.2007, the Rent Controller ordered eviction of the petitioner from property in dispute. Against the order passed by Rent Controller, the petitioner filed an appeal, which was also dismissed and order passed by the Rent Controller was upheld. Thereafter, petitioner filed a revision petition before this Court which was also dismissed on 30.03.2009. Respondent-Landlord filed an execution of the order dated 09.10.2007 and notice to present petitioner was issued. The petitioner filed objections and admittedly, those objections have not been decided. Without considering the objections or passing any order on the objections, the impugned order has been passed, which is subject matter of challenge in the present revision petition on the ground that the impugned order has been passed without taking any decision on the objections and the same is contrary to the provisions of Section 47 CPC.

4. Without issuing any notice to the other party as it is an admitted fact that the objections have not been decided so far whereas as per Section 47 CPC, the objections relating to execution of a decree are to be decided by the Executing Court; although it is not necessary that the Executing Court is to frame issues but in case certain objections are raised, that Executing Court should have given an opportunity to the parties in support of their respective cases. In the present case, no order has been passed on the objections. Simply it has been mentioned that the objections are not maintainable. How objections are not maintainable, it has not been mentioned. In view of facts as mentioned above, the impugned order deserves to be set-aside and accordingly, the same is set-aside with a direction to the Executing Court to take decision on the objections filed by the petitioner and then pass order afresh after considering those objections.

The revision petition is disposed of accordingly.