

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 2899 of 1994
Date of Decision: 8.4.2015.

Lekh Raj and others

.....Petitioner

Versus

Murari Lal (deceased) through LR's and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Harinder Sharma, Advocate
for the petitioners.

Mr. J.S.Brar, Advocate
for the respondents.

SABINA, J.

Kishori Lal had filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of Murari Lal and Bal Krishan.

The case of the landlord, in brief, was that Murari Lal had been inducted as a tenant in the shop in dispute at a monthly rent of ₹ 12/-. Murari Lal had not paid the rent from 1.4.1986 to 30.6.1986 and had sublet the premises to Bal Krishan. It was further prayed that the building in question had become unfit and unsafe for human habitation.

Murari Lal, in his written statement, admitted the relationship of landlord and tenant between the parties. It was averred that he had tendered the arrears of rent as demanded by the landlord. Murari Lal had denied the factum of subletting of the

premises in question to Bal Krishan. It was further averred that the building in question was fit for human habitation.

Bal Krishan, in his written statement, averred that the ejectment petition had been filed by the landlord in collusion with Murari Lal. In fact, he was carrying on his business in front portion of the premises in question. He further stated that he had tendered the rent at the rate of ₹ 12/- per month. It was denied that the building in question was unfit and unsafe for human habitation.

The learned Rent Controller vide order dated 24.5.1990 dismissed the ejectment petition. Aggrieved against the said order, Kishori Lal preferred an appeal. During the pendency of the appeal, landlord Kishori Lal died and his legal representatives were brought on record. The Appellate Authority vide judgment dated 3.1.1994 dismissed the appeal filed by Kishori Lal. Hence, the present petition by the landlord.

During the pendency of this petition, Murari Lal and Bal Krishan died and their legal representatives were brought on record.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

So far as the ground taken by the landlord for eviction of the tenant qua arrears of rent is concerned, the same was rendered infructuous as the tenant had tendered the arrears of rent.

Landlord had further sought eviction of the tenant on the ground that the building in question had been rendered unsafe and unfit for human habitation. In this regard, both the sides examined their experts.

Landlord examined AW-3 Kamaljit Singh, who had proved on record his report Exhibit A-3. The said report was prepared in December 1976, however, the ejectment was sought by the landlord by filing the ejectment petition in the year 1986. In these circumstances, the learned Courts below rightly held that no reliance could be placed on report Exhibit A-3.

Landlord also examined AW-4 Dayal Singh who proved his report Exhibit AW-4/A to establish that the building in question had been rendered unfit and unsafe for human habitation. So far as AW-4 is concerned, he stated in his cross-examination that he had obtained diploma through correspondence course and had not joined any college. He was already working as a Road Inspector when he had got the diploma. He further deposed that he had appeared as a witness for the first time and had not visited the first floor of the building. He could not depose qua the staircase as he had inspected the same while standing on the floor. He had only inspected the room. He did not inspect the premises in possession of Kehar Singh. The platform was in good condition. He had not done any test to assess the condition of the building and had opined from his knowledge and experience. In view of the cross-examination of AW-4, the Courts below rightly held that no reliance could be placed on the report submitted by AW-4.

On the other hand, respondents examined RW-4 Dhanna Singh, who deposed that the building in question was fit and safe for human habitation. He further deposed that the shop in question was an independent unit and was not part of the bigger building. The said witness was a building expert. The Courts below, thus, rightly basing reliance on the report submitted by RW-4, held

that the building in question could not be said to be unfit and unsafe for human habitation.

Landlord had further sought ejectment of tenant Murari Lal on the ground that he had sublet the same to Bal Krishan. However, no rent note had been proved on record nor any receipts had been proved on record in this regard. The Courts below, after appreciating the evidence on record, held that Bal Krishan was already in possession of the premises in question much before Murari Lal came in possession of the tenanted premises.

Since the landlord had failed to establish his case, the Courts below had rightly ordered the dismissal of the ejectment petition.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

April 08, 2015
Gurpreet