

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2255 of 2004

Date of decision: 23.09.2015

Ajudhya Parshad (dead) through his LRs

... Petitioner

Versus

Harinder Mohan

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Ms. Anuradha Oberoi, Advocate for the petitioner.
Mr. Amit Dhawan, Advocate for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Eviction petition preferred by the petitioner-landlord for ejectment of the respondent-tenant from the demised premises i.e. a shop, was since dismissed by the Rent Controller vide order dated 03.10.2001. As even the appeal preferred against the said order failed and was dismissed vide judgment dated 19.01.2004, the petitioner-landlord is before this court.

Ejectment of the respondent was sought on multiple grounds such as non-payment of rent, impairment of value and utility of the shop in question and also that the respondent had illegally and forcibly occupied the third room adjacent to the premises without the consent of the petitioner.

In defence, it was pleaded, inter alia, that the respondent had tendered rent amounting to ₹ 13,200/- plus interest ₹ 1,460/- plus house tax amounting to ₹ 4967.25 and also the costs ₹ 100/- on the first date of hearing and the same was accepted by the landlord. And thus, the ground as regards the arrears of rent and payment of house tax was non-existent. It was denied that the respondent had impaired the value and utility of the shop in question, in any manner. The allegations as regards the forcible occupation of third room were denied.

On a due and comprehensive consideration of the matter in issue, and the evidence on record, both the authorities concurrently recorded that as regards the arrears of rent, the same was tendered on the first date of hearing. In respect to the house tax, the tenant had brought on record a copy of the judgment and decree dated 09.05.1997 (Mark-A), vide which it was concluded that the respondent-tenant was entitled to recover excess amount of ₹ 1770.25, which was claimed by the petitioner on account of house tax. Appeal preferred against the said decree was dismissed by the Additional District Judge, Jalandhar, vide order dated 17.11.1999 (Ex.R1). As regards the ground of material impairment of value and utility of the premises, nothing was brought on record, least any cogent or credible evidence, to substantiate the said plea. Though, it was recorded that the

respondent-tenant had forcibly encroached upon the third room adjacent to the premises, which the petitioner-landlord had kept for himself, and he was even denied the right of passage, but since that could neither be termed as nuisance so as to seek eviction of the tenant under Section 13(2)(iv) of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act'), nor another ground to seek ejectment of the respondent, claim of the petitioner for eviction of the respondent was misconceived. Nothing was brought on record by the petitioner to prove that the respondent had indeed carried out certain additions or alterations, which in turn had impaired the value and utility of the premises. Neither the requisite pleadings in this regard were set out in the eviction petition nor any cogent evidence was led to substantiate the said plea. Learned counsel for the petitioner could not point out as to how the findings, that have concurrently been recorded by both the courts below in this regard, were either contrary to the position on record or suffered from any material illegality. No other argument was advanced.

In the wake of the position as set out above, no interference is warranted in exercise of revisional jurisdiction, under Section 15(5) of the Act. Petition being devoid of merit is accordingly dismissed.

September 23, 2015
Rajan

(Arun Palli)
Judge

