IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: SEPTEMBER 29, 2015

Sulekh Chand

.....Petitioner

VERSUS

Harsh Vijay Jain and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Present: Mr. Sandeep Goyal, Advocate, for the petitioner.

Ms. Shashi Jain, Advocate, for the respondents.

*****

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 21.02.2012 (Annexure P-3) vide which, in the execution proceedings, it has been concluded that the decree holder is entitled to a sum of ₹61,989.50P as house tax from the judgment debtors and the decree holder is also entitled to interest amounting to ₹42,163/- till the amount of aforesaid bills stood paid.

It is the contention of learned counsel for the petitioner that the house tax bills and receipts, which have been produced, do not pertain to the property in question and, therefore, the order passed by the District Judge, Karnal, cannot sustain.

This contention of counsel for the petitioner is disputed by counsel for the respondents by asserting that such a ground was never raised by the petitioner before the Courts below. As a matter of fact, before the Rent Controller also, when the receipts were produced in evidence, he had not disputed the factum that it did not pertain to the property in dispute. The stand taken by the petitioner was that he was not liable to pay any house tax as it was included in the rent amount and said stand was not accepted by the Courts, which led to the passing of the order of eviction, which has been upheld upto this Court. She has referred to the house tax bills, Ex.P-10 pertaining to the year 1993-94, where the property has been clearly mentioned as House No.835/13 and it has been assigned the house tax assessment Number as 1037/A/8. The subsequent house tax bills also refer to the same house tax assessment number i.e. 1037/A/8, which fact could not be disputed by counsel for the petitioner. She, on this basis, contends that the house tax, which the petitioner is liable to pay, pertains to the same property, which was under his tenancy.

Counsel for the petitioner submits that except for the first bill for the assessment year 1993-94, none of the subsequent house tax bills produced by the respondents specify that the same pertain to property/House No.835/13, which was the rented property and, therefore, these bills do not pertain to the said property and, thus, he is not liable to pay the house tax. He has referred to Exhibits P-10/C and Ex.P-10/D to contend that it has been mentioned in these receipts as House Number 1037A/8, which cannot be said to be of the property in question i.e. House No.835/13. He, thus, contends that the impugned order deserves to be set-aside.

Another argument has also been raised by counsel for the petitioner that only one room was in possession of the petitioner and, therefore, the tax should be proportionately reduced as it pertains to whole building.

These assertions are also disputed by counsel for the respondents and she states that it pertains to only the shop, which was rented out to the petitioner.

I have considered the submissions made by learned counsel for the parties and have gone through the impugned order as also the records of the Courts below but I do not find any merit in the contentions as raised by counsel for the petitioner.

A perusal of the receipts Ex.D10/A to Ex.D10/D clearly indicate that the same pertain to House No.835/13 as the house tax assessment number in all these bills has been shown to be 1037/A/8. The assertion of counsel for the petitioner that it pertains to the whole building cannot be accepted as no such plea was ever raised by the petitioner either before the executing Court or before the Rent Controller, when the petition was being contested. A perusal of the said receipts do not indicate that the same pertain to the complete building and, therefore, in the light of the findings, which have been recorded by the Rent Controller in the order of eviction, it cannot be said that these bills do not pertain to the tenanted portion.

The Court below has returned findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

In view of the above, the present petition being devoid of any merit, stands dismissed.

At this stage, counsel for the petitioner has pointed out that he has already deposited some amount as per directions issued by this Court. If that be so, the amount so paid will be adjusted by the executing Court against the final liability of the petitioner.

September 29, 2015 **(AUGUSTINE GEORGE MASIH)**
khurmi **JUDGE**