

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3345 of 2005 (O&M)
Date of decision: 23.9.2015

Shri Jai Dev Aggarwal

..... Petitioner

Versus

M/s Amar Emporium, Sadar Bazar, Gurgaon

..... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Amit Jain, Advocate for the petitioner.

Mr. Lokesh Sinhal, Advocate for the respondent.

ARUN PALLI, J. (Oral)

The eviction petition preferred by the petitioner-landlord which was dismissed by the Rent Controller, Gurgaon vide order dated 17.9.2004. As even the appeal against the said order failed and was dismissed vide judgment dated 23.12.2004. This is how the petitioner-landlord is before this Court.

Ejectment of the respondent was sought by the landlord on multiple grounds such as non-payment of rent, personal necessity as also impairment of value and utility of the premises in question.

In defence, it is pleaded *inter alia* that there was no relationship of tenant and landlord between the parties. Respondent was never inducted as a tenant in the premises by the petitioner. Therefore, there was no occasion to pay any rent. In fact, the respondent was in occupation of the

shop in question in his own right and the petitioner had no right, title or interest therein. The grounds on which the eviction of the respondent was sought were denied and the respondent prayed for dismissal of the eviction petition with exemplary cost.

On a due and comprehensive consideration of the matter in issue and the evidence on record, the Courts below concurrently concluded that petitioner had failed to lead any cogent or credible evidence to prove that there was ever any relationship of tenant or landlord between the parties. Neither any rent note, counter foil of the receipt, copy of the house tax assessment register or any other conceivable evidence was led to prove that the respondent was indeed a tenant under the petitioner. So much so, petitioner himself never stepped into the witness box to prove his claim. His son, Jitender Kumar (PW1) categorically stated in his cross-examination that he did not hold any power of attorney executed by his father in his favour. No date, month or year, when the respondent was purportedly inducted in the demised premises, was either disclosed in the petition or proved by adducing any evidence. Even the exact period for which respondent had not paid rent was even mentioned in the petition.

That being so, it was concluded that the testimony of Jitender (PW1) and Basant Lal (PW2) could not be relied upon to hold that the respondent was inducted as tenant at the rent of ₹34,000/- per month. Rather, Ex.P2 and Ex.PX revealed that originally Gumani Ram and his father Udmai Ram were owners of the shop in question but that was sold to Ratti Ram and Ram Singh in an auction that was carried out pursuant to a

Court order. Therefore, even if the documents brought on the record by the respondent, Ex.R9 to Ex.R-12, were excluded out of consideration even then the documents Ex.P2 and PX were not sufficient to hold that there was ever any relationship of landlord or tenant between the parties.

Learned counsel for the petitioner could not show as to how the conclusions that have concurrently been recorded by the Courts below, were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, no interference is warranted in exercise of revisional jurisdiction under Section 15(6) of the Haryana Urban (Control of rent & eviction) Act, 1973. The petition being devoid of merit is accordingly, dismissed.

September 23, 2015

Manoj Bhutani

**(ARUN PALLI)
JUDGE**