

In the High Court of Punjab and Haryana at Chandigarh.

**C R No. 3497 of 2012 (O&M)
Decided on 04.02.2015**

Rajinder Kumar

--Petitioner

Vs.

Leela Devi

--Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Whether Reporters of Local Newspapers may be allowed to see the judgment ?

To be referred to Reporters or not ?

Whether judgment should be reported in the Digest ?

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

Mr. Manoj Kumar, Advocate, for the respondent

Rakesh Kumar Jain,J: (Oral)

This revision petition is filed by the tenant being aggrieved against the orders of both the Courts below by which he has been ordered to be evicted from the demised premises.

In brief, the case set up by the petitioner is that Smt. Lajwanti had inducted him as tenant in the demised premises on 01.3.1999 at a monthly rent of ₹2000/-. Smt.Lajwanti died on 24.10.2005 and thereafter

eviction petition was filed against the petitioner by her daughter-in-law Leela Devi on 03.04.2007 on the ground of non-payment of arrears of rent w.e.f. March,2005. Leela Devi claimed herself to be the owner of the demised premises on the basis of a Will dated 28.5.1986.

The petitioner denied the relationship of landlord and tenant between the parties, therefore, the Rent Controller did not assess the provisional rent. Later on, Smt. Leela Devi obtained probate on 07.8.2008 (Ex.P3), then an application was moved by the petitioner under Order 6 Rule 17 of the CPC to amend the written statement to admit Leela Devi as landlord but the application was dismissed and the said order had attained finality as it was not challenged by way of revision.

Ultimately, the Rent Controller concluded that Smt. Leela Devi is the landlord of the petitioner and passed the order of eviction on the ground of non payment of arrears of rent. Effort was made by the petitioner to seek permission of the Court to pay arrears of rent on the ground that when the relationship of landlord and tenant was denied, at that time, there was no probate and as soon as the landlord got the probate on the basis of the Will on 07.8.2008, the application was filed by the petitioner before the Rent Controller to admit her as the landlord of the demised premises but the said application was declined erroneously.

The order of eviction was, however, upheld by the Appellate Court as well on the analogy that when the relationship of landlord and tenant is denied and the provisional rent not assessed by the Rent Controller because of that reason, the tenant cannot be allowed to offer the payment of rent thereafter on the ground that Leela Devi has been proved to be the landlord of the tenant.

Learned counsel for the petitioner has vehemently argued that the the Courts below have not appreciated the definition of tenant provided under Section 2 (i) of the East Punjab Urban Rent Restriction Act, 1949 which provides that the tenant is the person who pays rent to the landlord, whereas the petitioner had never paid any rent to Smt. Leela Devi, therefore, she was not the landlord. He has also referred to the decision of this Court in the case of **M/s. Chopra Jewellers Vs. Rajender Pal Gupta** 2010 (1) R.C.R. (Rent) 228.

On the other hand, learned counsel for the respondent has submitted that once the tenant denies the relationship of landlord and tenant, he does so at his own risk and if at final stage, Court comes to the conclusion that the relationship of landlord-tenant was wrongly denied, eviction would follow and no opportunity could be given to tenant to make good the deficiency in arrears of rent. He has also relied upon a judgment of this Court in the case of **Sandeep Shahi Vs. Smt. Asha Rani**, 2010 (2) R.C.R. (Rent), 500.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that there is no error in the orders of the Courts below because the petitioner has categorically denied the relationship of landlord and tenant between the parties and when he tried to move an application to admit the relationship, the said application was dismissed and the said order has attained finality. In such a situation, where the tenant denies the relationship of landlord and tenant, he does so at his own risk of being evicted from the premises in case the Rent Controller comes to the conclusion that there exists a relationship of landlord and tenant between the parties because at that time, no opportunity is granted to

the tenant to pay arrears of rent to escape from eviction.

In view of the above, I do not find any merit in this revision petition and the same is hereby dismissed.

04.02.2015

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(Rakesh Kumar Jain)
Judge