

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 4469 of 2015(O&M)
Date of decision : September 7, 2015

Onkar Singh

..... Petitioner

Versus

Seema Bakshi

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. K. S. Sidhu, Advocate
for the petitioner.

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?

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order whereby the application filed under Order 39 Rule 1 and 2 CPC with the suit viz-a-viz respondent-landlord not to dispossess the petitioner-tenant from the suit property described in suit as H.No. 1208/6, Street No.6, Bhai Himmat Singh Nagar, Block-A, Dugri, Ludhiana has been dismissed.

Learned counsel appearing on behalf of the petitioner-tenant submits that entire house was taken on rent and in order to support the aforementioned assertions, a copy of the Card/book issued by the Kehar Gas Agency (Annexure P-2) would vouch this fact. However, the courts below have while declining the

application and even declined the interim injunction with regard to the ground floor. In case, the petitioner-tenant has not been found in possession of 1st floor, he is entitled to protection viz-a-viz ground floor.

He further submits that viz-a-viz the ground floor the respondent-landlord has already filed a petition seeking eviction.

Notice of motion.

Mr. Anil Kshetarpal, Senior Advocate assisted by Mr. Maninder S. Saini, Advocate who is present in Court accepts notice on behalf of the respondent-landlord and submits that no doubt the rent petition seeking eviction of the petitioner-tenant from the ground floor of the aforementioned house has been sought but there is a serious dispute with regard to the tenancy of the 1st floor. Landlord never let out the 1st floor to the petitioner-tenant, whereas, by relying upon the Card/book of the Gas Agency, the petitioner-tenant is trying to usurp and encroach upon the 1st floor.

He further submits that his client would not be averse, in case the injunction is granted viz-a-viz ground floor as noticed above, as rent petition seeking eviction of the petitioner-tenant has been filed.

I have heard learned counsel for the parties and appraised the paper book.

Mr. K. S. Sidhu, learned counsel appearing on behalf of the petitioner-tenant has relied on copy of the Card bearing Serial No.13974, of the gas connection issued to Onkar Singh Pal in respect of H. No.1208/6, Street No.6, Bhai Himmat Singh Nagar,

Block-A, Dugri, Ludhiana to show that the petitioner-tenant is in occupation of the 1st floor. The respondent-landlord during the course of hearing of the application under Order 39 Rule 1 and 2 CPC placed reliance on similar card bearing No.13974 have been issued by the same very agency and there is no reference to the 1st floor.

Both the courts below have rejected the application of the petitioner-tenant by relying upon the aforementioned card (Annexure P-2) bearing S.No.182988 as forged and fabricated document for the reason that the card does not bear reference of the 1st floor. In essence, in case the story coined by the petitioner-tenant is accepted that the Gas Agency had wrongly issued the card not for the 1st floor but for the ground floor because the S.No. would not be after 13974 but prior to that.

It is a question of fact the petitioner-tenant as to whether had been inducted as a tenant of the 1st floor or not. Since the respondent-landlord has already initiated the proceedings under the new Rent Act seeking eviction of the petitioner-tenant from the house in question i. e. H. No.1208/6, Street No.6, Bhai Himmat Singh Nagar, Block-A, Dugri, Ludhiana from the ground floor. In my view, the petitioner-tenant is entitled to injunction viz-a-viz ground floor of H. No.1208/6, Street No.6, Bhai Himmat Singh Nagar, Block-A, Dugri, Ludhiana. The respondent-landlord is injuncted not to cause interference, much less forcibly dis-possess the petitioner-tenant except in due course of law.

In view of the aforementioned observations, the

impugned order is accordingly modified. It is hereby directed that the petitioner-tenant is granted injunction with regard to forcible dis-possession and interference in respect of H. No.1208/6, Street No.6, Bhai Himmat Singh Nagar, Block-A, Dugri, Ludhiana for ground floor only and not with regard to 1st floor of the same very house.

It is further directed that the petitioner-tenant shall not obstruct the passage/access to the 1st floor of respondent-landlord.

This order of mine shall not be construed as an expression of opinion on the merits of the case. The court shall not be influenced by the aforementioned findings.

The civil revision is disposed of.

(AMIT RAWAL)
JUDGE

September 7, 2015
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