

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5430 of 2015(O&M)
Date of decision: 17.12.2015

Shanti Devi (deceased) through LRs

... Petitioner

Versus

Shree Mandir Pop Singh Sabha (Registered)

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Deepak Sharma, 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?

ARUN PALLI J. (Oral)

Ejectment of the tenant-petitioner was ordered by the Rent Controller, Ambala, vide order dated 14.08.2012. As even an appeal preferred against the said order was dismissed vide judgment dated 14.01.2015, the tenant is before this court.

In brief, the demised premises i.e. a shop measuring 13.3' X 10.3' is a part of Shree Mandir Pop Singh. The landlord i.e. Shree Mandir Pop Singh Sabha is a Society, registered under the Societies Registration Act. The eviction was claimed on account of non-payment of rent, for the tenant was in arrears since April 2002 @ ₹ 50/- per month as also on account of personal bona fide. The accommodation in question

was required by the landlord for the development and expansion of the Mandir.

In defence, it was pleaded, inter alia, that tenant was in possession of more area than the accommodation in question and the petition for partial eviction was not maintainable. The alleged need of the landlord was not conceived in good faith and the rate of rent was only ₹ 16/- per month, from the very beginning.

On a due and thoughtful consideration of the matter in issue, and the evidence on record, both the authorities concurrently concluded that rent note (Ex.P5), executed by husband of Shanti Devi on 02.05.1964, proved the relationship of landlord and tenant between the parties. And the receipts issued to the tenant as also the counter receipts signed by her, fully proved that the rate of rent was ₹ 50/- per month. The plea set out by the tenant that the said receipts were forged and her signatures might have been obtained by the landlord by playing a fraud, remained unsubstantiated for lack of cogent evidence. Rather, on an analysis of the signatures of Shanti Devi on the rent receipts as also on the power of attorney and her written statement, by the Rent Controller itself, it was concluded that the disputed as well as the admitted signatures were affixed by one and the same person. And, thus, the rent tendered by the tenant @ ₹ 16/- per month was short and invalid. Landlord, in support of

its claim, had examined Ravi Saran (PW1), Secretary of the Society, who fully corroborated the case set out in the eviction petition. So much so, not even a single suggestion was put to the said witness by the learned counsel for the tenant disputing the bona fide need/requirement of the landlord. As a result, it was concluded that the aspect on which the witness was not even cross-examined would be deemed to have been admitted by other party. As regards the identification of the demised premises, the case set out by the tenant was that she was not in possession of the room shown in the site plan appended with the eviction petition and rather, the room shown by mark ABCD in the site plan (Ex.RW1/1) was under her tenancy. And, the Society had earlier filed a suit against legal heirs of Jaipal Sharma, who indeed were in occupation of the demised premises. That being so, it was concluded that the tenant could always substantiate her plea by producing the site plan that was produced by the landlord in the said suit i.e. Civil Suit No.17-CS, filed against the LRs of Jaipal Sharma, but she did not. Rather, the tenant chose to withhold the best evidence and, therefore, even the said plea remained unsubstantiated. Further, Shanti Devi against whom the eviction petition was preferred had died after filing of the written statement and the petitioner, who claimed to be her legal representative pursuant to a Will allegedly executed by her, was arrayed only for the purpose of pursuing the matter.

Learned counsel for the petitioner could not point out as to how the conclusions that had concurrently been recorded by both the authorities were either contrary to the position on record or suffered from any material illegality.

No interference is warranted in exercise of revisional jurisdiction, under Section 15(6) of the Haryana Urban (Control of Rent & Eviction) Act, 1973. Petition being devoid of merit is accordingly dismissed.

December 17, 2015
Rajan

(Arun Palli)
Judge