

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 3788 of 2002

Date of Decision: 05.08.2015

Ram Lubhaya Sharma

.....Petitioner

Vs.

Om Parkash (deceased) through his LRs and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Kanwaljeet Singh, Senior Advocate, with
Mr. Amandeep Singh Necho, Advocate,
for the petitioner.

Mr. Kuldeep Senwal, Advocate,
for the respondents.

SABINA, J.

Petitioner had sought ejectment of the respondents by moving a petition under Section 13 of the East Punjab urban Rent Restriction Act, 1949 (for short 'the Act') from the demised premises. The ejectment petition had been filed by the petitioner on the grounds that the demised premises had been rendered unsafe and unfit for human habitation and that respondent No. 1-Om Parkash had sublet the same to respondent No. 2-Ashok Kumar without the permission of the petitioner. The ejectment petition filed by the petitioner was allowed by the Rent Controller vide order dated 15.05.1999. However, in appeal filed by respondent No. 2, Ashok Kumar, the judgment passed by the Rent Controller was set aside. Hence, the present petition by the petitioner-landlord.

Learned Senior counsel for the petitioner has submitted that the premises in question had been sublet by Om Parkash (original tenant) to respondent No. 2-Ashok Kumar without the permission of the petitioner. Admittedly, respondent No. 1-Om Parkash had vacated the premises in question in the year 1971.

Learned counsel for the respondents, on the other hand, has opposed the petition.

In the present case, the case of the petitioner was that the premises in question had been initially rented out to Om Parkash. Om Parkash had vacated the premises in question in the year 1971. However, Om Parkash had sublet the premises in question to respondent No. 2-Ashok Kumar without the permission of the petitioner.

Om Parkash appeared in the witness box as RW-3 and stated that he had taken the shop in question on rent from the owner Mulkh Raj in the year 1970 and had vacated the same in January 1971 as his business had failed.

Initially shop in question was owned by Mulkh Raj. Mulkh Raj died on 24.02.1994. Part of the shop had been purchased by the petitioner from Mulkh Raj, vide sale deed dated 01.02.1994 (Exhibit DA-2). Mulkh Raj had executed Will dated 17.03.1993 (Exhibit A-1) in favour of the petitioner. Thus, the petitioner became owner of the whole shop in question after the death of Mulkh Raj in February 1994. Petitioner by moving the ejectment petition in question had averred that the rent qua the premises in question was due w.e.f. January 1992 onwards. Thus, till January 1992, landlord had received the rent from the tenant.

Petitioner in his cross-examination had admitted that when he had purchased the demised premises at that time Ashok Kumar was in possession of the same. It was also stated by the petitioner in his cross-examination that respondent was in arrears of rent for the period of about 5/6 years at the time of institution of the ejectment petition. The ejectment petition was filed in the year 1995 whereas the petitioner had claimed rent w.e.f. January 1992 onwards. The original owner had not sought the ejectment of respondent No. 2 on the ground that the premises in question had been sublet to him. Om Parkash had vacated the premises in the year 1971. Thereafter, respondent No. 2 came in possession of the demised premises.

In the facts and circumstances of the present case, the learned Appellate Authority had thus, rightly held that the petitioner had failed to establish that Om Parkash had sublet the premises in question to Ashok Kumar.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

August 05, 2015
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