

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Civil Revision No.5666 of 2005
Date of Decision:29.10.2015**

Vijay Kumar and otherspetitioners

Versus

Dhan Singhrespondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not? YES**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.Aalok Jain, Advocate
for the petitioners

Mr.B.R.Gupta, Advocate
for the respondent

ARUN PALLI, J.(ORAL):-

Eviction petition filed by the landlord-petitioners was dismissed by the Rent Controller, vide order dated 18.03.2002. As even the appeal preferred against the said order failed and, was dismissed vide judgement dated 02.06.2005, the landlord-petitioners are before this Court, in this revision petition.

Briefly, eviction of the tenant-respondent was sought on multiple grounds such as non payment of rent, personal bona fide necessity and as the tenant had impaired the value and utility of the premises in question. It was maintained that the respondent was inducted as a tenant by the predecessor of the petitioners namely Amar Singh, who happened to be the father of petitioners No.1 to 8

and husband of petitioner No.9. He was also the real brother of the respondent. The tenancy commenced in the year 1975 when Amar Singh inducted the respondent as a tenant in the house in question @ ₹ 200 per month, besides the house tax. Since Amar Singh had passed away about 7½ years ago, petitioners had become the landlord qua the respondent.

In defence, it was pleaded, inter alia, that neither the respondent was put in possession of the premises, at the instance of his late brother Amar Singh, nor there was any relationship of landlord and tenant between the two ever. In fact, the respondent was in occupation of the house in question since the year 1971 with the consent and permission of his father namely Ram Kishan. And pursuant to a family settlement, the house in question had fallen to the share of the respondent in the year 1975. Ever since then, respondent with his family was residing in the said premises.

On a due and comprehensive consideration of the matter in issue and the evidence on record, both the authorities concurrently concluded that the onus to prove that there indeed was a relationship of landlord and tenant between the parties was upon the landlord. Except the oral bald statement of Narender Kumar (AW3), who happened to be petitioner No.4, nothing was brought on record to prove that there ever existed any such relationship between the parties. No rent note, lease deed or any rent deed was brought on record to show that the respondent was put in possession of the house in question as a tenant at the instance of Amar Singh. No rent receipt or any counter foil was proved to show that the

respondent ever paid rent @ ₹ 200/- per month to Amar Singh or even to the petitioners post his death. So much so, Narender Kumar (AW3) failed to state in his cross examination as to what was the date, month and the year in which the accommodation in question was let out to the respondent. An analysis of his testimony revealed that not even a word was said that the respondent had been paying rent to the petitioners or their predecessor-in-interest namely Amar Singh. He was also not able to tell the date and month, respondent had allegedly effected the demolition in the premises. On the contrary, documents Ex.R1 to Ex.R6 i.e.copies of the voter's list for the period from 1972 to 1989, revealed that respondent Dhan Singh was shown to be residing in the house in question since the year 1972. Not even a single suggestion was put to respondent Dhan Singh that he had not been residing in the demised premises since 1972 but from 1975, when he was inducted as tenant. Late Amar Singh, who died in September 1988, never claimed himself to be the landlord viz-a-viz the respondent who happened to be his real brother. Just because, the petitioners were able to prove the sale deed qua the house in question, which showed Amar Singh to be the owner of the premises, it could not be said that respondent Dhan Singh was inducted as a tenant by late Amar Singh. Suffice it to say, nothing was brought on record, least any cogent or credible evidence to show that the respondent was put in possession in the year 1975 @ ₹ 200/- per month by late Amar Singh. Even as per the case set out by the petitioners, Amar Singh remained alive for a period of 13 years, since the creation of the tenancy, as he passed

away in September 1988. No evidence was led to show that respondent ever paid any rent to Amar Singh. And, even post his death, from 1988 to 1995, nothing was brought on record to show that even the petitioners were paid any rent by the respondent, as eviction was sought on account of non payment of rent w.e.f.01.05.1992 to 30.04.1995.

Learned counsel for the petitioners could not point out as to how the findings that have concurrently been recorded by both the authorities were either contrary to the position on record or suffered from any material illegality. No other argument was advanced.

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

29.10.2015
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(ARUN PALLI)
JUDGE