

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6658 of 2015(O&M)
Date of decision: 08.10.2015

Bhupinder Singh and others

... Petitioners

Versus

Kewal Krishan Chhabra

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. JS Ahluwalia, Advocate for the petitioners.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? YES
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order dated 08.07.2014, rendered by the Rent Controller, Ludhiana, eviction of the petitioners from the demised premises had since been ordered. As even the appeal preferred against the said order failed and was dismissed on 31.08.2015, petitioners-tenants are before this court in this revision petition.

Ejectment of the petitioners was sought on the ground that the premises in question had become unfit and unsafe for human habitation, as the major portion of the building had already fallen. Most of the tenants in the building had vacated the accommodation in their possession. The building of which demised premises is just a part of, happened to be more than 100 years old. Huge cracks had appeared in

the walls and they had become plumb. So much so, even the Municipal Corporation, Ludhiana, had declared the premises unfit and unsafe for human habitation, under Section 273 of the Punjab Municipal Corporation Act, 1976. Even, Kartar Singh, the original tenant, had abandoned the premises during his lifetime due to its ruinous condition and had started living with his son at Chandigarh before his death. That being so, the premises was lying closed since October, 1996. Resultantly, petitioners-tenants had even ceased to occupy the premises for a continuous period of four months preceding the institution of the eviction petition.

In defence, it was pleaded, inter alia, that the eviction petition was filed as a counter-blast to the petition filed by predecessor-in-interest of the tenants under Section 12 of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act'). But, it was also maintained that the respondent was not the owner as also the landlord of the entire property. Thus, petitioners were not tenants under the respondent.

On a due and comprehensive consideration of the matter in issue, and the evidence on record, both the authorities concurrently concluded that the building expert examined by the tenants conceded in his cross-examination that the demised premises could not be restored even after repairs and shall have to be re-constructed. Whereas, the

building expert examined by the landlord testified that the property as a whole had become unfit and unsafe for human habitation and was, thus, beyond repairs. Photographs Ex.R17 to R49, brought on record, by none other than the tenants themselves, revealed that the building in question was in an extremely dilapidated condition.

As regards; whether the petitioners had ceased to occupy the demised premises, it was concluded that evidence on record proved that the tenanted premises was not being used for the purpose it was let out. Respondent-landlord appeared in support of his claim and proved that the petitioners had ceased to occupy the premises without any reasonable cause. He testified that there was no electric connection in the premises and the kitchen was non-functional. So much so, tenant- Bhupinder Singh conceded in his cross-examination that the premises in question had not been used. And neither the electricity meter was in operation nor the kitchen was functional. Nothing was brought on record, least any cogent or credible evidence, to show that the tenants ever resided in the premises in question since October, 1996. Rather, it was conceded that his entire family was residing at Chandigarh. That being so, it was concluded that the demised premises had indeed become unfit and unsafe for human habitation and the tenants had actually ceased to occupy the same for a continuous period of four

months, preceding the date of institution of the eviction petition.

I have heard learned counsel for the petitioners and perused the paper book.

Learned counsel for the petitioners simply seeks to reiterate the submissions that were advanced before both the authorities and rejected after a due and comprehensive consideration. All what he has urged is that the evidence on record showed that there indeed was no relationship of landlord and tenant between the parties and, thus, the respondent-landlord had no locus to maintain the eviction petition. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the petition is wholly devoid of merit and is thus liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, predecessor-in-interest of the petitioners-tenants had filed a petition under Section 12 of the Act against the respondent-landlord, seeking repairs in the demised premises. And thus, the plea that there never existed a relationship of a landlord and tenant between the parties was wholly erroneous and misconceived. Further, tenant-Bhupinder Singh admitted in his cross-examination that he had paid rent, in the present proceedings, as assessed by the Rent Controller by admitting respondent-Kewal Krishan

Chhabra to be his landlord. Once that was so, the argument being advanced by learned counsel for the petitioners-tenants pales into insignificance. Further, evidence on record conclusively proved that the premises in question was indeed a part of the building No.B-II-1570 and the major portion thereof had already fallen. As a result, most of the tenants had already abandoned possession and left. So much so, roof of one of the rooms in occupation of the petitioners had also fallen due to its dilapidated condition. Report submitted by the building expert revealed that the building had developed huge cracks and the walls had become plumb. None other than the expert examined by the tenants testified that the demised premises was beyond repairs and could only be reconstructed. His report Ex.RA duly substantiated this position. Photographs, Ex.R22, Ex.R26, Ex.R27, Ex.R28, Ex.R30 & Ex.R31, clearly depicted the dilapidated condition of the building. As regards; whether petitioners had ceased to occupy the demised premises, nothing was brought on record to show that the petitioners had occupied or used the demised premises for years, immediately preceding the institution of the eviction petition. On the contrary, none than tenant-Bhupinder Singh conceded in his cross-examination that he was residing with his entire family at Chandigarh. The kitchen was non-functional since 2000. Electricity meter in the premises was lying dead. Neither any water nor any electricity

bill was brought on record to show that the tenants ever remained in use and occupation of the premises in the recent past. The building expert examined by the tenants themselves testified this position.

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

In the wake of the position as set out above, no interference is warranted in exercise of revisional jurisdiction, under Section 15(5) of the Act. Petition being devoid of merit is accordingly dismissed.

October 8, 2015
Rajan

(Arun Palli)
Judge