

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

CR No.6622 of 2014

Date of decision : May 19, 2015

Gurmukh Singh

..... Petitioner

Versus

S. Gurpreet Singh Dhillon

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Aseem Kalia, Advocate,
for the petitioner.

GURMIT RAM, J.

1. This revision is preferred by the petitioner-herein (tenant) against the order dated 23.08.2012 of the learned Rent Controller, Amritsar vide which the ejectment application under Section 13 of the East Punjab Urban Rent Restriction Act III of 1949 (in short “the Act”) filed for the eviction of the petitioner-herein from the demised premises was accepted and the judgment dated 24.05.2014 of the learned Appellate Authority, Amritsar vide which the appeal preferred against the abovesaid order of the learned Rent Controller was dismissed.
2. The case of the respondent-herein (landlord) before the learned Rent Controller in brief was that he is the owner of the property bearing

No.5-C, Guru Amar Dass Avenue, Airport Road, Amritsar, which he had purchased vide sale deed dated 28.04.1997. He inducted the respondent as tenant in the front shop in the month of September, 2002 on rent at the rate of ₹1,700/- per month with the condition to enhance the same by ₹100/- every year. He paid this rent upto April, 2006. He did not pay any rent from May, 2006 onwards and, as such, he has to file the instant ejectment petition for his eviction from the demised shop on the ground of non-payment of rent and house tax w.e.f. May, 2006 onwards.

3. On notice, respondent appeared and claimed in his reply that there did not exist any relationship of landlord and tenant between the parties. He even also denied the ownership of the applicant qua the demised shop. In this regard it is his further case that he was inducted as a tenant in the demised shop by Amarjit Singh Dhillon, the father of the applicant of which he is in possession. The sale deed dated 28.04.1997 is stated to be false and fictitious. Then it is his further plea that rate of rent of the demised premises was ₹1,000/- per month, which he had paid upto May 2007. From June 2007 to March 2008, he had deposited the rent in the Court. Rest of the averments were also denied by him.

4. The learned Rent Controller after hearing the learned counsel for both the parties and going through the record as well came to the conclusion that there exists relationship of landlord and tenant between the parties and accepted the ejectment application vide the impugned order dated 23.08.2012. Then the tenant preferred an appeal against this order before the learned Appellate Authority, Amritsar which was also declined vide impugned judgment dated 24.05.2014.

5. Being aggrieved from the order / judgment passed by both the

Courts below, the petitioner (tenant) has come up in the instant revision petition before this Court.

6. Learned counsel for the petitioner was heard. Record was also requisitioned, which was perused with his able assistance.

7. Learned counsel for the petitioner has contended that in the case in hand, the learned Rent Controller did not frame any issue with regard to rate of rent and as such, both the impugned order/judgment passed by both the Courts below are liable to be set aside on this ground. As per the record it is correct that no such issue was framed by the learned Rent Controller as submitted above by the learned counsel for the petitioner. Then it is to be noted that both the parties have brought on record their respective pleadings with regard to rate of rent. It was the case of the respondent (landlord) that demised shop was rented out to the tenant/petitioner herein at the rate of ₹1700/- per month with the condition to enhance the same by ₹100/- per annum. On the other hand, it was the stand of the tenant-petitioner herein that the rate of rent was ₹1,000/- per month. Both the parties have also led their evidence according to their respective pleadings. Then as abovesaid, the tenant had taken the plea that there did not exist any relationship of landlord and tenant between the parties, so non-framing of issue with regard to rate of rent on the part of learned Rent Controller is not fatal in this case for the reasons abovementioned. So it is not a case in which it could be held that any prejudice has been caused to the parties due to non-framing of this issue or due to non-recording of finding by the learned Rent Controller with regard to rate of rent. So above contention of learned counsel for the petitioner is declined and disposed of accordingly.

8. Then the learned counsel for the petitioner has, further, submitted that onus regarding issue No.2 has wrongly been placed upon the petitioner herein-tenant and whereas as per the law it was to be placed upon the respondent herein-landlord. But anyhow keeping in view nature of this issue the onus could be placed upon both the parties by giving them option to bring their respective evidence to decide this matter. In the case in hand from the side of respondent herein/landlord certified copy of sale deed Ex.A1 has been brought on the record to show that premises of demised shop was purchased by the present respondent-landlord on 28.04.1997. Then it is admitted case of the tenant-petitioner herein that he was inducted as a tenant in the demised premises in the year 2002. So the plea of the tenant that he was inducted as a tenant in the demised shop by the father of the respondent-herein and not by the respondent himself does not carry much weight for the reason that property in question had already been purchased by the present respondent/landlord much prior to the inception of tenancy in question on 28.04.1997. When the respondent herein-landlord was the owner of the demised premises when it was allegedly let out by his father to the tenant petitioner herein in the year 2002, then it cannot be said that there did not exist any relationship of landlord and tenant between the parties qua demised premises. The father of the respondent (landlord) herein inducted the petitioner herein as a tenant in the demised premises on behalf of his son i.e. present respondent (landlord). Then the fact that the respondent herein is owner/landlord of the demised shop is also corroborated by AW-1 Sukhjot Singh Randhawa, AW-2, Kundan Singh and AW-3 Ravinder Singh Bhatti in their respective statements. AW-3 Ravinder Singh Bhatti is brother-in-law of the respondent herein. Herein I

also deem it appropriate to discuss few lines from the cross-examination of RW-1 Balkar Singh and RW-2 Sukhvinder Singh. RW-1 Balkar Singh in his cross-examination has stated that it is correct that property in dispute is owned by applicant vide sale deed Ex.A1 and it is also his admission that this sale deed was executed by Smt. Satwant Dhillon in favour of the applicant and since then he is the owner of the property and their landlord. Gurmukh Singh was the tenant under the applicant even prior to him. Then it is also in his cross-examination that he knows Ravinder Singh Bhatti present in the Court who is the brother-in-law of the applicant Gurpreet Singh (respondent herein). Then he has also admitted that said Ravinder Singh Bhatti is legal power of attorney holder of Gurpreet Singh to contest this case. Then RW-2 Sukhwinder Singh who is son of the petitioner herein (tenant) in his cross-examination has admitted that shop in dispute was let out to them by the petitioner (respondent herein). They are in possession of the demised shop as a tenant under the petitioner (respondent-herein). The case law titled as ***Som Nath vs. Smt. Krishana Devi Nayal, 1997 (2) PLR 486*** as cited by learned counsel for the petitioner herein is not applicable to the case in hand.

9. So in the light of the above discussed evidence it is held that both the learned Courts below have rightly recorded the findings that there exists relationship of landlord and tenant between the parties. So in the case in hand, it cannot be said that any prejudice had been caused to the tenant due to placing of onus of said issue upon him. Hence the above contention of learned counsel for the petitioner is also declined and disposed of accordingly.

10. In the case in hand, non-examination of respondent herein

(landlord) as a witness does not have any adverse effect on the merits of the case. On his behalf, Ravinder Singh Bhatti who is his brother-in-law had appeared as AW-3 and deposed about the entire case. Even it is also to be noted that in the case in hand, respondent has also not appeared as witness in this case himself on the ground of his ill health.

11. The plea of the petitioner-herein (tenant) that the alleged sale deed Ex.A1 is false and fictitious document is not available to him in this case since it is settled law that a tenant cannot deny the title of his landlord.

12. In the light of the above discussion it is held that there is nothing on the record to hold that the findings recorded by both the Courts below are either perverse or against the evidence available on the file.

This revision petition being merit-less stands dismissed and disposed of accordingly.

May 19, 2015
Gaurav Sorot

(GURMIT RAM)
JUDGE