

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

119

Civil Revision No.6931 of 2015

Date of Decision:16.10.2015

Tilak Raj

....petitioner

Versus

Sudha Jain

.....respondent

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.Deepak Girotra, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

Vide order being assailed, dated 01.09.2015, rendered by the Appellate Authority, Rohtak, application moved by the petitioner-tenant, for framing of an additional issue i.e. **“Whether there is relationship of landlord/landlady and tenant between Smt.Sudha Jain, petitioner and Tilak Raj, respondent-tenant?OPP”**, had since been dismissed.

The conclusion arrived at in this regard reads as thus:

“7. After going through the judicial file, in my opinion there is no merit in the application filed by appellant-tenant for framing additional issue. In the present case, it has been admitted by the appellant in the reply that appellant is a tenant of the shop in dispute on monthly rent of Rs.1550/- and there was no clear denial of relationship of landlord and tenant. Even there is no denial that

the shop in question was not taken on rent from Shri P.C.Jain and present petitioner Sudha Jain is the wife of late Shri P.C.Jain. Even in the legal notice Exhibit P6 in para 2 it was stated that Shri P.C.Jain had expired and he executed a Will in favour of Smt.Sudha Jain and hence, as per Will Smt.Sudha Jain has become the landlady of the shop in question along with other properties owned by late Parkash Chand Jain. The Will Exhibit PX was also relied during evidence which is in favour of respondent/landlady. It may also be mentioned that in the earlier eviction petition No.25 of 18.08.2009, the certified copy of which is already on record, it shows that upon notice regarding the eviction petition, appellant Tilak Raj had appeared before the Court and had tendered rent along with interest as assessed by the court as per Exhibit P8 and thereafter, the said eviction petition was withdrawn by respondent/landlady Smt.Sudha Jain through her counsel Shri Rajesh Sharma, Advocate without prejudice to the other rights to pursue the ejectment petition pending in the court on different grounds.

11. With due respect for the authorities cited, there was no need for framing the said issue because it has already been admitted that the appellant had taken shop on rent from Shri P.C.Jain and there is no clear denial in the reply regarding the relationship, hence, no benefit can be given to the appellant from the authorities cited.”

Ex facie, there was no clear and categoric denial of the relationship of landlord and tenant between the parties, in the written

statement filed by the petitioner. All what was stated in para No.1 of the written statement is; **“let the petitioner prove as the landlord and ownership of the shop.”** Naturally, no issue that there never existed a relationship of landlord and tenant between the parties, was ever claimed either by the petitioner. Learned counsel for the petitioner fails to point out whether in the examination-in-chief of the petitioner, he categorically denied the relationship of a landlord and tenant between the parties. A bare reading of the order of eviction passed by the Rent Controller dated 18.03.2011 (Annexure P1), reveals that it was not even remotely urged on behalf of the plaintiff that respondent Sudha Jain was not the landlord. In fact, the whole case of the plaintiff proceeds on a premise that the respondent was his landlord but he disputed her alleged need to occupy the premises. So much so, the petitioner, in the written statement filed by him, admitted the tenancy as also that he was a tenant in the demised premises at a monthly rent of ₹1550/-. This is also not denied that the petitioner was inducted in the demised premises as tenant by Sh.P.C.Jain, who happened to be the husband of respondent-Sudha Jain. Even in the legal notice (Ex.P6), it was recited that since Sh.P.C.Jain had expired, but by virtue of a Will executed by him, premises in question was bequeathed in favour of respondent and, thus, she had become the landlady by operation of law. So much so, in the earlier eviction petition No.25 of 18.08.2009, filed by the respondent, pursuant to a notice issued by the Rent Controller, petitioner Tilak Raj appeared and tendered rent along with the interest as assessed by the Court, vide Ex.P8, and,

thereafter, the eviction petition was withdrawn by the respondent. Therefore, application for framing an additional issue, post order of ejectment by the Rent Controller, was moved with a design to delay and derail the proceedings and thus, badly lacked bona fides.

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

16.10.2015

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(ARUN PALLI)
JUDGE