

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.7860 of 2015(O&M)
Date of decision: 27.11.2015

Swaran Singh

... Petitioner

Versus

Vir Abhimanyu

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Jaideep Verma, Advocate for the petitioner.

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

ARUN PALLI J. (Oral)

The ejectment petition preferred by the petitioner was dismissed by the Rent Controller, vide order dated 31.07.2012. As even the appeal preferred against the said order failed and was dismissed vide judgment dated 11.08.2015, landlord-petitioner is before this court.

Eviction of the tenant-respondent was sought on two grounds i.e. non-payment of rent and personal necessity. Briefly, the case set out by the petitioner in the eviction petition was that the rate of rent settled between the parties was ₹ 2,800/- per month and the tenant-respondent was liable to pay arrears of rent w.e.f. June, 1999 besides House Tax. And, the petitioner required the demised premises for his

personal use and occupation as also for his son, who intended to start a business of readymade garments.

In defence, the tenant-respondent conceded the relationship of landlord and tenant between the parties, but it was maintained that the rate of rent was ₹ 100/- per month and the same stood paid to the petitioner upto 31.12.2013. The liability to pay house tax was of the landlord. In fact, landlord was carrying on a business of milk dairy and also a coal depot at Sherpur, Ludhiana. He was also the owner of two other shops that formed part of the same building, as the demised premises, and these were in his occupation. He also owned other properties situated at Sherpur, Ambedkar Nagar, near Baba Than Singh Chowk and Tajpur Road, Ludhiana. He had constructed 15 shops in the said property and was also running a milk dairy in the same premises. He had let out different portions including four shops of the said properties situated at Ambedkar Nagar to different tenants. Accordingly, it was maintained that the eviction petition was filed with a mala fide intention, on a fictitious ground, to seek eviction of the tenant-respondent.

On an analysis of the matter in issue and the evidence on record, both the authorities concurrently concluded that it was upon the landlord-petitioner to prove that the rate of rent was indeed ₹ 2,800/- per month. But the reliance placed by the petitioner upon two rent receipts was

found to be wholly misplaced, as these were not validly proved. Concededly, original receipts were in possession of the petitioner, but were never brought on record. In fact, landlord Swaran Singh (PW1) conceded in his cross-examination that the said receipts were not issued by him but by his father. Even otherwise, the receipts produced by the petitioner did not bear any shop number. So much so, even the name of the person from whom the said receipts were obtained also did not find mention therein. No endorsement or signatures of the tenant were obtained thereupon. Thus, it was concluded that there was no material on record to link the said receipts with the demised premises as also the tenant-respondent. The witnesses examined by the petitioner i.e. PW2 & PW3, were concededly not the witnesses to the tenancy. Besides that, nothing was brought on record to show that the rate of rent was indeed ₹ 2,800/- per month since the inception of the tenancy. On the contrary, Asim Prabhakar, Clerk, MC, Ludhiana (RW2) brought the summoned record of property bearing No.1177/3, Baba Than Singh Chowk, Ludhiana, which revealed that the rental value of said shop was recorded as ₹ 100/- per month. Records showed that an amount of ₹ 14,820/- was deposited by the tenant, pursuant to an order of assessment of provisional rent w.e.f. June, 1999 to July, 2006 along with costs and interest. Thus, tenant-respondent could not be evicted on account of non-payment of rent. As regards

the personal bona fide need, it was observed that although the petitioner had claimed that he was idle and thus required the premises to set up a business of readymade garments, and even his son intended to join him in the said venture, but of the three sons of the petitioner two were settled in Australia and third son was still studying. It was not made clear as to which of three sons actually required the premises or intended to join his father in business. Rather, evidence on record proved that landlord himself was engaged in property business. So much so, petitioner himself (PW1) conceded in his cross-examination that had the tenant paid the rent, there would have never been any dispute with him. He also conceded that he had not prepared any project report or investment plan for the proposed business. He also conceded that he had not disclosed that he was carrying on a coal business or its closure in the petition. In fact, it was admitted by him in his cross-examination that he was in possession of property Nos.2040 and 2041 at the time of filing of the petition. So much so, one of his witnesses i.e. Manmohan Singh (PW2) revealed that the landlord also had another property opposite the road. Accordingly, it was concluded that the landlord owned another two shops, but he had concealed this fact. That being so, it could not be concluded that the alleged need/requirement of the petitioner was genuine, bona fide or conceived in good faith.

Learned counsel for the petitioner could not point out as to the conclusions that have concurrently been recorded by both the authorities were either contrary to the position on record or suffered from any material illegality.

No interference is warranted in exercise of revisional jurisdiction, under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. Petition being devoid of merit is accordingly dismissed.

November 27, 2015
Rajan

(Arun Palli)
Judge