
IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.8738 of 2014
Date of decision: 28.1.2015

S. Gurcharan Singh Bedi and another

....Petitioners

Versus

Gurdwara Kalgidhar Singh Sabha

...Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Divanshu Jain, Advocate for the petitioners.

G.S.Sandhawalia J.(Oral)

The tenants are aggrieved by the concurrent findings of the authorities below whereby ejectment had been ordered by the Rent Controller, Chandigarh on 3.9.2012 (Annexure P/1) on account of non payment of rent from 1.3.1992 onwards at the rate of ₹ 350/- per month. On account of the petitioners denying the relationship of landlord-tenant they were accordingly not given the benefit of an opportunity to tender the rent. The said order was upheld in appeal by the Appellate Authority, Chandigarh on 11.11.2014 (Annexure P/3). Resultantly, the present revision petition has been filed.

Counsel for the petitioners has vehemently submitted that the findings recorded qua relationship of landlord-tenant is not sustainable and the this Court should interfere in such circumstances.

A perusal of the paper book would go on to show that the eviction petition was filed for the ejectment of the petitioners from Shop No.13, Gurdwara Kalgidhar Singh Sabha, Bapudham Colony, Sector 26, Chandigarh on the allegations that the petitioner no.1 was earlier the treasurer of the landlord society and at one time was a chairman of the committee constituted and had let out the shop in question along with other shops. The said tenants were carrying on business in the name and style of Bedi Shoes Store in the shop in question

and was in arrears of rent with effect from March, 1992 at the rate of ₹ 350/- per month. The eviction petition was resisted on various grounds including the fact that the relationship of landlord-tenant itself was denied and there was no question of arrears of rent and the petition was not maintainable under the East Punjab Urban Rent Restriction Act, 1949. The following issues were framed by the Rent Controller, Chandigarh:-

- “1. Whether there here exists a relationship of landlord and tenant between the parties as alleged?OPR (preliminary issue)
2. If the above issue is proved in affirmative, whether the respondent is in arrears of rent as alleged?OPP
3. Whether the respondent is liable to be evicted from the demised premises on the grounds mentioned in the petition?OPP
4. Whether the respondent is liable to be ejected from the tenanted premises as alleged?OPP
5. Whether the petition is not maintainable?OPR
6. Whether the petition is liable to be dismissed with special Costs?OPR
7. Relief”

The landlord society examined Devinder Singh, former General Secretary as PW-1 and also placed on record resolution dated 12.5.2002(Ex.P2) whereby petitioner No.1 was asked to clear the arrears. To rebut the case, the tenants examined Pal Singh as RW-1. The Rent Controller, Chandigarh came to the conclusion that the petition has been filed by the duly authorised person and the neighbour of the tenants, namely, Pal Singh who was examined by him had admitted in his cross-examination that the petitioners were tenants. It was also noticed that he himself was also tenant against whom the ejection proceedings

have been ordered. Petitioner no.1 admitted that he had remained chairman of the Managing Committee and also filed rent petitions against other tenants. Accordingly, the Rent Controller, Chandigarh came to the conclusion that there was a relationship of landlord-tenant as such and keeping in view the facts that the relationship had been denied, no opportunity was granted and the ejectment was ordered while placing reliance upon the judgment of this Court in **Jagdish Singh Vs. Mohan Lal 2004(3) PLR 78.**

The Appellate Authority, Chandigarh also dismissed the appeal as noticed above. The fact of relationship of landlord-tenant thus stand duly proved by none else than the witness of the petitioners-tenant himself who was also similarly situated and in his cross-examination admitted that ejectment petition had been allowed against him and even his appeal had been dismissed. The Appellate Authority, Chandigarh has also further noticed that petitioner no.1 himself admitted that he was a tenant in the shop in question and has also been impleaded as respondent and that the rate of rent was ₹ 350/- per month and that he had not paid the same. The admission in such circumstances is the best evidence upon the basis of which eviction had been ordered. It is settled principle that this Court is not sitting as a Court of appeal and only to examine as to whether the Courts below have acted within jurisdiction. Reliance can be placed upon the judgment of the Apex Court in **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh (2014) 9 SCC 78.** The relevant observations read as under:-

“We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these

Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

Once petitioner no.1 being an earlier office bearer of the respondent society and was continuing in the shop without paying rent and to avoid payment of rent has denied relationship of landlord-tenant and therefore, the said issue had been decided against him, the authorities below were well justified in not giving any opportunity to him to tender the rent in view of the settled principle laid down by this Court in **Hukma Devi Vs. Bhagwan Dass**, 2003(1) RCR

(Rent) 533, Ragbir Singh Vs. Sansar Chand 2004 (3) PLR 841 and Jagdish Singh's case (supra). The said view was further followed in Sandeep Sahi Vs. Smt. Asha Rani 2010(4) PLR 630. Accordingly, the orders passed by the authorities below do not warrant any interference while exercising the revisional jurisdiction of this Court.

Accordingly, the present revision petition is dismissed.

28.1.2015
Pka

(G.S.SANDHAWALIA)
JUDGE