

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3345 of 2003
Date of decision: 19.08.2015

Om Parkash son of Shri Daulat Ram

... Petitioner

Versus

Om Parkash son of Bhag Mal

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. KS Dadwal, Advocate, for the petitioner.
Mr. Sudhir Pruthi, Advocate for the respondent.

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 04.10.2000, rendered by the Rent Controller, Jalandhar, the eviction petition filed by the petitioner was dismissed. Appeal preferred against the said order failed and was accordingly dismissed vide judgment dated 05.03.2003. This is how, the petitioner-landlord is before this court.

In an ejectment petition filed by the petitioner, he sought eviction of Bhag Mal son of Jawala Ram i.e. predecessor-in-interest of the respondent, from the demised premises i.e. ES 425, shown in red colour in the site plan, appended with the petition. It was averred that the said property was purchased by Hardial Singh son of Bela Singh in

an open auction from the Rehabilitation Department and the petitioner purchased the said house from Hardial Singh vide a registered sale deed. Bhag Mal was alleged to have been inducted as a tenant in the demised premises on monthly rent of ₹ 400/- about twenty years ago. Subsequently, the rent was raised to ₹ 600/- per month. About five years prior to the filing of the eviction petition, at the instance of the respondent, the petitioner renovated the house and also provided an additional room. Accordingly, the rent was enhanced to ₹ 800/- per month. The rent was regularly paid by the respondent and consequently, the petitioner had issued receipts to the respondent. However, w.e.f. 01.01.1990, respondent failed to pay the rent and was thus in arrears @ ₹ 800/- per month. Thus, eviction was sought on account of non-payment of rent.

In defence, it was pleaded, inter alia, that neither the petitioner was the landlord nor even the owner of the demised premises. Rather, respondent claimed himself to be the owner in possession of the house in question. It was maintained that the said property was purchased by Swaran Singh Bajwa in an open auction and was subsequently sold to the respondent pursuant to an agreement dated 14.11.1990. And the respondent was put in possession. It was denied that the respondent ever paid rent to the petitioner, as there was

never any relationship of landlord and a tenant between the parties.

On a consideration of the matter in issue and the evidence on record, learned Rent Controller arrived at a conclusion that a copy of the assessment register for the year 1994-95 (Ex.PE), being relied upon by the petitioner, was hardly of any consequence as the same was prepared during the pendency of the proceedings. Further, the assessment register did not reflect that the respondent was indeed a tenant of the petitioner qua the demised premises. Except the statements of the attorney of the petitioner Dass Ram (AW1) and Ved Parkash (AW3), nothing was brought on record to suggest that the respondent was a tenant under the petitioner. On the contrary, Ex.R64 showed that the respondent was put in possession of the demised premises pursuant to the said document. Though, petitioner claimed to have issued rent receipts to the respondent for all these years, but no counterfoil was brought on record to substantiate the said plea. That being so, it was concluded that the petitioner had failed to prove the relationship of the landlord and a tenant between the parties. And, thus, there was no occasion for the respondent to pay any rent. Accordingly, the petition was dismissed.

Being aggrieved against the order dated 04.10.2000, passed by the Rent Controller, petitioner preferred an appeal.

Learned appellate authority reviewed the matter in issue, evidence on record, and on an analysis thereof, found itself in concurrence with the conclusion drawn by the Rent Controller. Accordingly, the appeal was dismissed.

I have heard learned counsel for the parties and perused the records.

Learned counsel for the petitioner simply seeks to reiterate the submissions that were advanced before the courts below and rejected after a due and comprehensive consideration. All what he has urged is that although respondent claimed himself to be the owner in possession of the house in question and had pleaded that he had purchased the said property from Swaran Singh Bajwa, who in turn had purchased the same in an open auction, however, nothing was brought on record to substantiate that either of the two was indeed the owner of the said house.

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

Ex facie, for the petitioner to succeed, he was required to prove that there indeed was a relationship of a landlord and a tenant between the parties. Petitioner purported to have inducted Bhag Mal as a tenant in the demised premises about twenty years prior to the institution of

the eviction petition. The case set out by the petitioner himself was that the respondent had been paying the rent regularly and he, in turn, issued the receipts in token thereof. However, neither any rent note nor a rent deed or even any other document was brought on record to show that the respondent was inducted in the demised premises at the instance of the petitioner. No rent receipt or any counterfoil was brought on record to prove that there ever existed any relationship between the two. This seems wholly incredible that if respondent was indeed a tenant in the premises for twenty years prior to the filing of the eviction petition, there was nothing, least a cogent evidence, to show that either he was put in possession at the instance of the petitioner or has been paying rent to him. So much so, the landlord himself never appeared in support of his claim. His attorney, namely, Dass Ram conceded in his cross-examination that he had been seeing the respondent in continuous possession of the property in question prior to 1968. He also admitted that the respondent had obtained an electric connection qua the demised premises in his name. Likewise, even the water and sewerage connection was in the name of the respondent. He also admitted that the respondent had demolished the third room in the year 1974-75 and reconstructed the same. Petitioner claims to have purchased the house in question from Hardial Singh but his attorney i.e. Dass Ram (AW1)

conceded in his cross-examination that Hardial Singh never remained in possession of the said property. So much so, in his cross-examination, he accepted to be correct that “*since there was no tenancy, so there was no occasion for payment of rent and its enhancement.*”

Learned counsel for the petitioner could not point out as to how the conclusions that have concurrently been arrived at by the courts below were either contrary to the position on record or suffered from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction. Petition being devoid of merit is accordingly dismissed.

August 19, 2015
Rajan

(Arun Palli)
Judge