

CR No. 1743 of 2016 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 1743 of 2016 (O&M)

Date of Decision: September 24, 2016

Pardeep Kumar

...Petitioner

Versus

Manjit Kaur & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Dhirinder Chopra, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. :

CM No.19385-CII of 2016

Prayer in this application is for preponement of the hearing of the case which is listed for 21.11.2016.

For the reasons mentioned in the application, the same is allowed. The hearing of the main case is postponed from 21.11.2016 to today and the main case is taken on board for consideration.

CM No.5082-CII of 2016

Exemption is granted from filing certified copies of the judgments and decrees of the Courts below as well as grounds of appeal and the same are taken on record, subject to all just exceptions.

Application stands disposed of.

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Challenge in this revision petition is to the order dated

03.11.2015 passed by the Appellate Authority, Patiala, whereby, the appeal preferred by the respondents-landlords has been accepted allowing their application preferred by them under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as '1949 Act') by setting aside the order dated 21.09.2013 passed by the Rent Controller, Patiala, dismissing the said application.

It is the contention of the learned counsel for the petitioners that a well-reasoned order passed by the Rent Controller, dated 21.09.2013, rejecting the application preferred by the respondents for eviction of the petitioner from the demised premises, has been set aside without taking into consideration the pleadings and the evidence led by the parties especially the findings recorded by the Rent Controller on issue No.1 holding that there is no relationship of landlord and tenant between the petitioner and the respondents on the ground of absence of rent note and non-production of any receipt or proof showing that the respondents had been receiving rent from the petitioner. He contends that a specific plea/objection was taken by the petitioner with regard to the fact that there was no relationship of landlord and tenant between the parties and that the demised premises have been taken on rent from one Shri Jagmeet Singh @ Manga, who had been collecting the rent from the petitioner. Further, it is asserted that the premises which is being sought to be the ownership of the respondents is different from the demised premises. He asserts that the petitioner is in possession of House No.B-22/546, situated at Dhanka Mohalla, Dharampura Bazar, Patiala, and not House No.683-685/3, eviction from

which is being sought. Since the number of the properties is different and there is no relationship of landlord and tenant, the eviction petition is not maintainable especially when no rent deed or rent receipt has been produced proving the relationship of landlord and tenant between the parties. He, thus, contends that the impugned order dated 03.11.2015 passed by the Appellate Authority, Patiala, setting aside the order dated 21.09.2013 passed by the Rent Controller, Patiala, rejecting the eviction application of the respondents, cannot sustain and deserve to be set aside.

I have considered the submissions made by the learned counsel for the petitioner and with his able assistance have gone through the pleadings, evidence and the orders passed by the authorities below but do not find myself in a position to accept the contentions of the counsel.

A perusal of the written reply filed by the petitioner would show that the petitioner has initially not denied the relationship of landlord and tenant rather it has been projected that the respondents are claiming higher rate of rent of the premises. He further pleads that they are liable to be prosecuted under Section 19 of the 1949 Act and had sought permission to file a complaint against the respondents. A plea has been taken that the house was let out by one Shri Jagmeet Singh @ Manga, who had been collecting the rent from the petitioner and thus, the relationship of landlord and tenant between the parties has also been denied. Jagmeet Singh @ Manga has appeared as PW-6 who is nephew of the husband of respondent No.1-Manjit Kaur, who had stated that he has no concern with the house in question and that he had not rented out the house in question to the

petitioners nor has he ever received the rent for the house in question from him. It had been pleaded that Jgmeet Singh @ Manga was resident of DLF Colony, Tripuri Town, Patiala, but no such person has been produced in evidence by the petitioner. Certain receipts purported to be that of rent have been produced which have also not been proved as it has not been stated that these receipts were issued in presence of the petitioner. The stand taken was that Jagmeet Singh had been collecting the rent from them each month, whereas, the receipts which have been produced are for the period 01.01.2002 to 30.06.2002, 01.10.2003 to 31.03.2004, 01.01.2007 to 30.04.2007 and 01.01.2010 to 30.06.2010, which are Exs.R15 to R-18 respectively. This is contrary to the pleadings which creates doubt with regard to the authenticity of the said receipts. All this indicates that the findings recorded by the Appellate Court that the plea of the landlord being Jagmeet Singh @ Manga is a concocted story, appears to be correct. Had Jagmeet Singh @ Jagga resident of DLF Colony, Tripuri Town, Patiala, the owner/landlord of the property, the first instinct would have been of the petitioner to inform him about the litigation who would have wasting no time in approaching the Court to safeguard his interest and protect himself.

The plea with regard to the identity of the property in question by asserting that the petitioner is in possession of House No.B-22/546, situated at Mohalla Dhanka, Dharampura Bazar, Patiala, and not property No.683-685/3, the evidence which has been led by the parties which has been discussed in detail in para 13 of the order passed by the Appellate Authority, Patiala, in the impugned order, it is apparent that PW-1 Tarsem

Kumar, who is the President of Dhanka Mohalla Sudhar Committee, Patiala, stated that he accompanied respondent No.1 twice to the tenanted premises to demand rent from the petitioner but he refused. Further, PW-3 Charanjit Singh, Municipal Councilor of the area, had stated that respondents are the owners of the premises in question and that properties situated in Dhanka Mohalla bears two numbers i.e. one given by the Rehabilitation Department and the other by the Municipal Committee, Patiala. He had then given his own example alongwith documentary evidence to prove the two different numbers allotted for the same property, one by the Rehabilitation Department and other by the Municipal Committee, Patiala. PW-4 Manjit Kaur-respondent No.1 has stepped into the witness-box and proved the factum about her ownership of the property on the basis of the Will executed by Budh Singh who was the father-in-law of respondent No.1 and was the original owner of the property as he had bought the house in question i.e. House No.683-685/3 from the Rehabilitation Department. The sale certificate Ex.P-28 and memorandums Exs. P-29 and P-30 were also proved on record. The documents which have been produced by the petitioner show that the house in his possession bears No.B-22/546 but the documentary evidence in support of this as produced by the petitioner and the respondents shows that the house number allotted to House No.683-685/3 of Rehabilitation Department by the Municipal Committee, Patiala, bears No.B-22/546. Reference in this regard can be made to Ex.P-17 which is the water supply and sewage bill pertaining to the connection to the House No.B-22/546 which is in the name of Budh Singh son of Sehzada

Singh, father-in-law of respondent No.1 Manjit Kaur. Similarly, Ex.R-13 is the electricity bill regarding the house in question in the name of Jaswant Kaur, admittedly is another daughter-in-law of Budh Singh. It is also admitted that the electricity bill Ex.R-13 produced by the petitioner pertains to the electricity connection installed in the house in question. This clearly establishes that Budh Singh was the original owner of the house in question and the respondents have inherited the said house from him. It may be added here that no other legal heir of Budh Singh has raised any dispute regarding the ownership of the house in question. As a matter of fact, PW-6 Jagmeet Singh @ Manga is the son of aforesaid Jaswant Kaur, who had made a categorical statement that the respondents are the owners of the house in question and he has nothing to do with the said property. The petitioner has tried to take the benefit of the two numbers of the same property allotted by the Rehabilitation Department and the Municipal Committee, Patiala, but the evidence which has come on record both the documentary and oral clearly depicts that the property which was the ownership of Budh Singh, the original owner and father-in-law of respondent No.1 and grand-father of respondents No.2 to 4 is the same which is the subject matter of the eviction petition.

In view of the above, the impugned order as passed by the Appellate Authority, Patiala, dated 03.11.2015 being based upon proper appreciation of the pleadings and the evidence brought on record as also the law, does not call for any interference by this Court in exercise of its revisional jurisdiction, The order passed by the Appellate Authority,

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Patiala, dated 03.11.2015, is, therefore, upheld and the present revision petition stands dismissed.

CM No.5083-CII of 2016

In view of the order passed in the the main revision petition, no separate order is required to be passed in this application for staying the operation of impugned order as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 24, 2016
Harish

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No