

N THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

462

CR No.2126 of 2006
Decided on : 15.02.2016

Narinder Mohan

... Petitioner

Versus

Jagmohan Singh and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr.Santosh Sharma, Advocate
for the petitioner.

Mr.R.S.Pandher, Advocate
for the respondents.

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

Ajay Tewari, J. (Oral)

This revision is directed against the impugned orders dated 14.12.2004 and 15.02.2006, passed by the Rent Controller as well as the Appellate Authority, Hoshiarpur, whereby the rent application filed by the respondent-landlord has been allowed and the petitioner-tenant has been ordered to be evicted from the shop in question on the ground of subletting.

The case of the landlord was that he rented out the premises in question to one Prem Sagar in the year 1980 and had obtained *Kabuliatnama* from him. However, in the year 1985, the

aforesaid Prem Sagar had named his business as “*Rama Garments*” and requested him to issue the receipt in the name of Rama Garments. Later, it transpired that he sublet the shop in question further to the petitioner. The case of the petitioner was that he was a direct tenant and the *Kabuliatnama* was a fake document created by Prem Sagar in collusion with the respondent. Both the authorities below, however, noticed that Prem Sagar was the father-in-law of the brother of the petitioner and therefore, there was no occasion for him to act in collusion with the landlord and give a false *Kabuliatnama* since he had no relationship with the landlord. It was primarily on this ground that both the authorities below held that tenancy was granted in the name of Prem Sagar and since the petitioner claimed to be a direct tenant, subletting had taken place. Both the courts also considered the other pieces of evidence like assessment register pertaining to the period from 1994-95 onward where entries regarding ownership of Rama garments was shown as Prem Sagar. The courts also noticed the fact that in the year 1980, the petitioner was a school going child.

Learned counsel for the petitioner further argued that parting of possession for consideration has not been proved. In my opinion this would pale into insignificance when the petitioner has claimed that he was a direct tenant from the date of inception.

Learned counsel for the petitioner has again argued that *Kabuliatnama* is a fake document created by Prem Sagar in collusion with the landlord but has not denied the fact that he is father-in-law of

the brother of the petitioner.

In my considered opinion, the crucial determinant case is *Kabuliatnama*. If the *Kabuliatnama* is believed then this petition has to be dismissed.

Having looked at all the facts and circumstances, I have no hesitation in endorsing the finding of the courts below that keeping in view the close relationship between the petitioner and Prem Sagar, the idea that he would collude with the respondent is extremely far fetched and once that is so, the petition has to be dismissed.

Ordered accordingly.

[Ajay Tewari]
Judge

15.02.2016
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