

In the High Court of Punjab and Haryana at Chandigarh.

Sr. No. 423

CR No. 2401 of 2005

Date of decision: 06th April, 2016

Waheguru Singh and another

.....Petitioners

Versus

Avtar Singh

.....Respondent

CR No.2402 of 2005

Waheguru Singh and another

.....Petitioners

Versus

Avtar Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

**Present: Mr. Aman Dhir, Advocate
for petitioners.**

**Mr. Aakash Singla, Advocate
for the respondent.**

- 1. *Whether Reporters of Local Newspapers may be allowed to see the judgment? Yes.***
- 2. *To be referred to the Reporters or not ? Yes.***
- 3. *Whether the judgment should be reported in the Digest? Yes.***

AJAY TEWARI, J. (ORAL)

This order shall dispose of the aforementioned two petitions filed by the land-lords which have arisen out of rent case No. 40 of 1997 and 38 of 1999. In both cases, eviction has been sought on the ground of non-payment. In case No.40 rent was demanded from 01.11.1993 till 31.07.1997 and in second

petition, from 01.08.1997 till 10.08.1999. In both the cases, the respondent took up plea that the petitioners were not his land-lord and also claimed that the rent was actually Rs. 500/- per month as against amount of Rs. 650/- per month claimed by the petitioners.

The Rent Controller held that the petitioners were the land-lord and the rate of rent was Rs.650/- per month but dismissed the petition since the respondent had tendered the rent under protest. The respondent went up in appeal and the appellate authority accepted his contention that the petitioners were not his land-lord and also that the rate of rent was Rs.500/-per month which the respondent was bound to pay to one Rajbir Singh and allowed the appeal and that is how land-lord is before this Court.

It may be noticed here that there is a long list of litigations between the parties and neither of them have exactly acquitted himself with any glory and both the parties are equally guilty of approaching the Court with unclean hands. The predecessor of the petitioners had earlier filed eviction petitions against the respondent as an attorney for his wife claiming that she was the owner and had then withdrawn those petitions after collecting the rent which the respondent had deposited under protest. He had thereafter executed sale deed dated 05.07.1996 by which he sold the property to the present petitioners and other persons. The respondent on his part filed a complaint dated on 24.04.1997 to the Collector under Section 47-A of the Stamp Act (for short 'the Act') alleging that the sale deed in favour of the petitioners and other co-vendees was undervalued. Subsequently he pleaded that the present petitioners and their co-owners have no right to claim rent from him. It is against this background of competing falsehoods that this case has to be decided.

Learned counsel for the petitioners stated that even though the

respondent has not proved that he had made the payment of the previous rent yet he would not press the claim for the rent up to 24.04.1997. As per him, once the respondent filed the complaint under Section 47-A of the Act, it has to be held that he had gained the knowledge of transfer of the title and therefore with effect from that date at least the respondent cannot claim that he had bona fide paid rent to somebody else. Learned counsel for the respondent on the other hand, has argued that the conduct of the predecessor of the petitioners justified the finding of the appellate authority that the petitioners are not the owners, and in any case not the land-lords of the respondent and therefore the respondent is not liable to pay any rent to the petitioners and their co-vendees.

In view of the submission of the learned counsel for the petitioners the only issue is whether in spite of whatever happened in the past , the respondent is liable to pay rent to the petitioners and their co-owners with effect from 24.04.1997 i.e date on which the respondent filed his complaint under Section 47-A of the Act. To my mind, once the respondent filed the complaint before the Collector that the sale deed in favour of the petitioner and their co-owners was under valued, he accepted the transfer. Learned appellate authority has brushed it aside by stating that complaint under Section 47-A of the Act is not a document of title. In my opinion, the appellate authority has misdirected itself. It is not important whether the complaint is or is not a document of title but the conduct of the respondent which is revealing. Once the respondent has challenged the sale deed on the ground of under valuation he cannot be heard to challenge the passing of ownership. Had he on 24.04.1997 filed an interpleader suit, it may have been held that he had bona fide uncertainty as to who was entitled to receive the rent, but he did nothing of this sort and only filed a complaint of under valuation.

In the circumstances, he cannot be heard to now argue that

these sale deeds did not pass any title and hence, he was not liable to pay the rent to the petitioners and their co-owners even after 24.04.1997. In these circumstances, it has to be held that the petitioners and their co-owners would be entitled to claim rent from the respondent after 24.04.1997. However the findings of the appellate authority that the rent note relied upon by the petitioners does not represent the true picture is also upheld and the contention of the respondent that the rent was actually Rs.500/- per month is accepted.

With this clarification on the issue of relationship and rent these petitions are dismissed.

April 06, 2016
anuradha

(AJAY TEWARI)
JUDGE