

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6394 of 2016

Date of Decision: September 28th, 2016

Baldev Singh

...Petitioner

Versus

Balbir Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.R.S.Mamli, Advocate,
for the petitioner.

Mr.Vivek Goyal, Advocate,
for the respondent.

AMIT RAWAL, J.

Petitioner-plaintiff is aggrieved of the dismissal of the *ad interim* application by the trial Court and as well as the Misc.Appeal filed against the order dated 3.8.2016 for issuing restraint order against the respondent-defendant for forcible interference and dispossession.

Mr.R.S.Mamli, learned counsel for the petitioner-plaintiff submits that a suit for permanent injunction along the aforementioned application was filed as plaintiff had taken Shop bearing No.487 (old No.397 min), Ward No.3, Opposite Shri Guru Nanak Pritam Girls Sr.Sec. School, Shahabad Markanda, District Kurukshetra on rent @ ₹500/- per month vide rent agreement dated 14.2.1995 from the previous owner, i.e., M/s Aggarwal Trust Shahabad through its President Lala Puran Chand Gupta son of Lala Kesho Ram Gupta. The said agreement was duly scribed by Shiv Darshan, Deed Writer. Initially, the shop in question was let out for

eleven months w.e.f. 15.2.1995 to 14.1.1996 @ ₹500/- per month, but thereafter the shop in question was not got vacated by the landlord and remained in possession of the petitioner with mutual consent. The landlord never issued any receipt qua rent. Respondent-defendant has purchased the aforementioned shop and other property, including Shop No.487, from Aggarwal Trust, Shahabad vide sale deed No.2823 dated 30.3.2005. He further submits that once a person is a tenant, the landlord can seek the ejectment in accordance with law, but not forcible dispossession. No ejectment order qua the shop in question against the petitioner-plaintiff has been passed by the competent Court of law and, thus, urges this Court for setting-aside the orders under challenge.

Per-contra, Mr.Vivek Goyal, learned counsel for the respondent-defendant submits that the respondent-defendant had filed an ejectment petition bearing No.19 of 2008 on 26.3.2008 against Gurbax Singh with regard to ejectment of Shops No.486 and 487, including the shop allegedly in occupation of the plaintiff. The ejectment order has already been passed and attained finality upto the Hon'ble Supreme Court in SLP No.8325 of 2016, decided on 31.3.2016, whereby Gurbax Singh had been given four months' time to vacate and hand over the peaceful possession. Plaintiff is none else but the relative of Gurbax Singh, who is alleged to have coined a story of induction of the plaintiff by entering a rent agreement in order to avoid ejectment order. Such an act on the part of the plaintiff and Gurbax Singh is contemptuous. Both the Courts below, *prima-facie*, found that the petitioner-plaintiff was not able to make out the ingredients as envisaged under Order 39 Rule 1 & 2 CPC and, thus, urges this Court for affirming the findings.

I have heard the learned counsel for the parties and appraised the paper book.

Once the Rent Controller, vide order dated 3.3.2011, had ordered for eviction of both the shops, the petitioner-plaintiff cannot allege and brand himself as tenant. The rent agreement is of the year 1995. Except that document, there is no other documents annexed with the application to prove the possession. It is evident that the landlord filed an execution for taking the possession of the shops. The petitioner-plaintiff had instituted the suit by coining a story. No single document has been placed on record to prove his possession, much less rent obviously, for the reasons that Gurbax Singh and the plaintiff are relatives.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Court, whereby it has been held that the balance of convenience lied in favour of the respondent-defendant. No case for interference is made out.

Revision petition stands dismissed.

September 28th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No