

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R. No. 2676 of 2012 (O & M)

Date of decision: 01.02.2017

Dera Samadh Baba Viapi

....Petitioner(s)

Versus

Ram Piari and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Varun Jain, Advocate,
for Mr. Arihant Jain, Advocate,
for the petitioner.

None for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The petitioner-landlord is aggrieved against the concurrent findings of the Courts below whereby, its petition for eviction of the respondents from the ground floor consisting two rooms, verandah and kitchen alongwith basement in which one room, verandah and one small room including stair case exist has been dismissed.

The ground for eviction was that the property had been let out to Ajit Singh-deceased who had constructed his own house in Sidhu Colony, behind Central Jail, Patiala and had shifted there. The demised premises were lying locked for the last more than 6 months from the date of institution i.e. 18.04.2006. The value of the property had impaired/demolished day by day and eviction was also sought on the ground of non-payment of rent which was ₹85/- per month.

The petition was contested on the ground that the same was

being used for residential purposes and the rent was being paid regularly and rent had already been received upto March, 2006. The property in dispute was a residential house which was being used. It was submitted that some of the family members were staying in Sidhu Colony, Patiala but it was denied that there was any ceasing of occupation of the property which was lying locked. It was pleaded that the respondent was still living in the premises and was using the premises.

The petitioner-landlord (which is a religious institute), examined as many as 3 witnesses including its Mahant Parmeshwar Dass. On the other hand, the tenants examined two witnesses namely the son of the deceased-landlord and one Shiv Charan Singh as RW-2.

Keeping in view the rent receipts from February, 2006 to March, 2006 Exs. R-1 to R-3, the Rent Controller took a view that there were no arrears of rent and decided issue no. 1 against the landlord. On the issue of cease to occupy, it was held that merely because electricity bill was coming on average basis did not mean that the legal representatives of the tenants were not residing in the demised premises or that it was losing its utility and value. The electricity consumption bills having been produced as Exs. R-7 and R-8 to prove the fact that the payment was being made to the local body regarding the supply of the same was duly taken into consideration. It was accordingly held that it has been laid down that even if there was no consumption of electricity, then also, it would not be proper to conclude that the consumer was not occupying the premises. Resultantly, the petition was dismissed.

The Appellate Authority has also taken into consideration the fact that the payment had been made for the water and sewerage

connections and electricity bills were duly paid. It was accordingly held that there was no such evidence regarding ceasing to occupy and merely because some members of the family of the tenant had shifted to another residential house in another locality would not bring tenancy to an end. Resultantly, the appeal was also dismissed.

The findings which have been recorded would go on to show that the landlord has failed to prove that the premises were not in occupation of the tenant for a period of six months as is the requirement under the Act. Once the electricity and water bills were being paid and there was no other proof apart from the stand of the tenants that some family members had shifted to another locality would not give any right of eviction as such to the landlord. The findings which are recorded are findings of fact which are not liable to be interfered with under the revisional powers in the absence of any infirmity patent on the face of the record.

Accordingly, finding no merit in the present revision petition, the same is dismissed.

01.02.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No