

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

C.R. No. 5172 of 2016

Date of decision: 08.05.2017

Salil Jindal

....Petitioner(s)

Versus

Hans Raj @ Pappu

...Respondent(s)

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

Present: Mr. Kashish Garg, Advocate,
for the petitioner.

Mr. Karan Garg, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present revision petition by the landlord is to the order dated 12.07.2016 (Annexure P-6) passed by the Rent Controller, Bathinda whereby, the application for deletion of issue no. 1 has been dismissed. The said issue was as to whether there existed a relationship between the parties as landlord and tenant and the onus was put on the petitioner-landlord.

Counsel for the petitioner has vehemently submitted that as per the pleadings, there was no such denial regarding the relationship and, therefore, the issue has been wrongly framed and, therefore, it should have been deleted. He has referred to averments made in para no. 2 and the reply to the application filed for deletion wherein, the respondent-tenant has admitted that he has tendered the arrears of rent. It is accordingly submitted that once there was admission as such, the issue had been wrongly framed.

The Rent Controller dismissed the application on the ground

that it was the case of the tenant that he had never been informed that the applicant had purchased the tenanted premises from the earlier landlord and, therefore, he should prove the said fact. He had further held that there was no denial of relationship between them but a contradictory stand had been taken and was further of the opinion that since the applicant had already led his partial evidence, the issue was not liable to be deleted. The same could be decided at the final stage while keeping in mind the facts and circumstances of the case.

Counsel for the respondent, on the other hand, submitted that now the evidence is complete and the case is only now pending consideration.

In the opinion of this Court, the order passed by the Rent Controller is well justified. The specific defence of the respondent-tenant is that one Fateh Singh was the landlord for the last 36 years and the rent was being paid regularly to the said person. No notice had been given of the purchase which was in contrast to the stand taken by the petitioner-landlord that due intimation of purchase of building was given. It is also the case of the petitioner in his eviction petition that he had purchased the property on 07.09.2012 from the previous owner-cum-landlords namely Sukh Devinder Singh S/o Fateh Singh and Surinder Kaur D/o Fateh Singh and Karanvir Singh Romana S/o Sukh Devinder Singh and became the owner-cum-landlord.

Thus, it is apparent that the issue was framed in such circumstances and the onus of the same is upon the petitioner as he is relying upon the sale deed and a notice given of intimation. Thus, it would be inappropriate at this stage to delete the issue in view of the defence taken

by the respondent-tenant. The Rent Controller has, thus, to decide on the basis of the evidence which has come on record in view of the averments made in the eviction petition as to whether the sale has been proved and whether the necessary notice was issued.

In such circumstances, the present revision petition is dismissed. However, it is made clear that the abovesaid observations are only for the purposes of deciding the validity of the impugned order. Needless to say it will be open to the Rent Controller to decide the issue on the basis of the pleadings and the evidence which comes on record without being prejudiced by the observations made herein.

08.05.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No