

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 6029 of 2016 (O & M)

Date of decision: 06.02.2017

Joginder

....Petitioner(s)

Versus

Satish Bansal

...Respondent(s)

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

Present: Mr. Charanji Lal, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition is directed against the concurrent findings of the Courts below whereby, ejectment had been ordered by the Rent Controller, Kaithal on 07.03.2015 on the ground of non-payment of rent since the relationship of landlord and tenant was denied and also on account of bona fide requirement for setting up the office of Chartered Accountant for the landlord and which was upheld on 03.08.2016 by the Appellate Authority.

Counsel for the petitioner has vehemently submitted that a plea had been taken that the petitioner was a tenant at a monthly rent of ₹400/- and house tax as well since 2004 and it has been held by the Appellate Authority that he was in possession since 2002 since an FIR had been lodged by the petitioner against Rajinder Parkash Bansal, the real brother of the respondent. It is, thus, submitted that since a false stand as such has been taken, eviction order was not justified. He has placed reliance upon

judgment of the Apex Court in *V. Chandrasekaran and another vs. The*

Administrative Officers and others, (2012) 12 SCC 133 to take the said plea.

A perusal of the paper book would go on to show that ejectment was sought from the shop in question on the ground floor bearing Private No. 1, part of MCK No. 953/11 situated at Kaithal-Ambala road. It was stated that the landlord was running his profession who is a Chartered Accountant and is having his office on the first floor of the said shop and the adjoining shop was also in possession of another tenant namely Dilbag Singh. Resultantly, due to the personal requirement, the petition was filed that the clients had to wait outside at the road and there was no proper place to adjust the clerk and stenos and the premises were not suitable.

The defence of the petitioner was that the shop in dispute was situated adjacent to Aruna Filling Station and one Rajinder Parkash Bansal was the owner of the said petrol pump and he had taken the premises @ ₹150/- per month from him and had paid ₹4 lac at that point of time as *pagri* and therefore, the rent was only fixed at ₹150/- in 2001. A dispute had arisen on 17.06.2002 and the then Landlord had opened the lock and FIR No. 259 dated 17.6.2002 at Police Station, City, Kaithal had been lodged. The said landlord had expired and after his death, Pankaj and Munna, sons, had started collecting rent and never issued any receipts and therefore they were his landlords. The following issues were framed by the Rent Controller.

- (1) Whether the respondent is liable to be evicted from the demise premises on the grounds mentioned in para No.3 of the petition? OPP*
- (2) Whether the application is not maintainable in the eyes of law? OPR*

- (3) *Whether the applicant has no locus-standi to file the present application? OPR*
- (4) *Whether this Court has got no jurisdiction to hear the application? OPR*
- (5) *Whether the applicant has concealed true and material facts from the court? OPR*
- (6) *Relief.*”

Since the relationship itself was disputed, the Rent Controller spent his energy making an effort to find out whether the eviction petition was maintainable. He took into consideration the sale deed Ex.AW2/1 which was proved by the son of the scribe. The written statement filed in a separate suit was taken into consideration alongwith the statement of the landlord who had appeared as AW1. The numbering of the sale deed showed that the property number had been mentioned as MCK 515/14 and accordingly, reliance was placed upon the copies of the assessment register of the Municipal Committee, Ex.A6 to Ex.A11 to hold that the old number had changed to 954/11 in the year 1990 and thereafter, to 953/11 and the property was measuring 67 square yards situated at Ambala-Kaithal Road had been recorded in the name of Satish Kumar. The document Ex.A5 which was tendered in rebuttal evidence, showed that the legal heirs of Rajinder Parkash Bansal had admitted that Satish Bansal was the landlord of the petitioner. Once title as such was proved and the rent had not been tendered, eviction was accordingly ordered on the ground that the relationship had been denied and therefore, no opportunity had to be given for tendering rent. Reliance was placed upon judgment of this Court in ***Gurinder Singh and others vs. Kundan Lal, 2005(1) RCR 332*** regarding the said principle. The defence that a sum of ₹4 lac as 'Pagri' had been given

to Rajinder Parkash Bansal was rejected on the ground that there was no documentation or writing of payment of the said amount.

On the issue of bona fide requirement, it was accordingly held that the landlord was a Chartered Accountant and was running a firm in the name of M/s Kamal & Bansal Chartered Accountant and reliance was placed upon Ex.A-3 and Ex.A-4, and the photographs are Ex.RK to show that the premises were situated on the first floor of the tenanted premises and therefore, the need was bona fide as a waiting room was required for the clients and for the place for clerks and stenos. Resultantly, the eviction was ordered on 07.03.2015.

No doubt, the Appellate Authority has noticed that on account of the FIR lodged in the year 2002 an incident had taken place between the respondent's brother and tenant, the tenancy was of an earlier point of time. However, in view of the sale deed which was in favour of respondent and on the fact of the assessment registers also, it was held that there was no dispute as such qua the identification of the property and even the site plan Ex.RJ was taken into consideration. On account of any contrary evidence produced, it was held that once he was the owner of the premises, then he would be the landlord and therefore, once his title was there, the right to file the eviction petition would not be as such questioned. Therefore, the rent having not been deposited, the ejection on the ground of non-payment was held to be justified. Similarly, keeping in view the settled principle that the landlord is the best judge of his requirements and that he was running office on the first floor, the ejectment had been ordered on the ground of additional space requirements, the finding was accordingly upheld on 03.08.2016. The said finding as such does not suffer from any procedural

illegality or irregularity which would warrant interference.

The title as such has been proved. The landlord, on an earlier occasion, might have been the brother but thereafter, due to family arrangements and in view of the admission of the legal representatives of his brother in other proceedings and in view of the sale deed itself, the right as such of the respondent cannot be questioned.

The judgment in *V. Chandersekaran's case (supra)* which has been relied upon by the counsel in such circumstances is not applicable since the said case was pertaining to the maintainability of the writ petitions of persons who had filed writ petitions and who were no longer owners and were challenging the acquisition proceedings as such. It was in such circumstances, it was held that the judicial process could not be abused whereby affidavits containing misleading or inaccurate statements were made for achieving ulterior notices. Learned counsel has also placed reliance upon the judgment of the Apex Court in ***K.D. Diwan vs. Harbhajan S. Parihar, (2002)1 SCC 119*** to argue that the landlord can be other than the owner. There is no dispute qua the said preposition as Section 2(c) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 also provides a more expansive definition, than merely the owner. But in the present case, in view of the sale deed in favour of the respondent and in view of the fact that due to family arrangements inter se the legal representatives of his brother having accepted his claim, no fault can be found with the reasoning given by the Courts below. The said reasoning does not suffer from any infirmity.

In the present case, as noticed, the landlord is only seeking premises for his bona fide requirement which stands proved by both the

Courts below. In such circumstances, finding no merit in the present revision petition, the same is dismissed.

06.02.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No