

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 7183 of 2016
Date of decision: 16.01.2017

Shri Rameshwar Dass Sharma

....Petitioner(s)

Versus

Dinesh Kumar

...Respondent(s)

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

Present: Mr. Deepak Sharma, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner-tenant challenges the order dated 29.09.2016 (Annexure P-5) passed by the Rent Controller, Kharar whereby, his application for dismissing the rent petition being infructuous has been rejected. The dismissal was sought on the ground that the property in dispute had been acquired vide notification dated 02.02.2015 issued by the National Highway Authority of India (NHAI).

Resultantly, counsel for the petitioner has placed reliance upon judgment in *Harjinder Singh vs. Ved Parkash, 2010 (1) PLR 162* to submit that there was no relationship of landlord-tenant and the same had ended by operation of law. The application had been opposed by the respondent-landlord on the ground that possession had not been taken and the tenant could not deny the title as such. The Rent Controller found that the ejectment application was filed on 10.12.2014 on the ground of non-payment of rent and the acquisition proceedings had been initiated after the

filing of the rent petition. There was nothing to show that the amount of compensation as such had been awarded to the landlord and the possession had been taken by the Government. Accordingly, application was dismissed on the ground that once the relationship was admitted, the tenant could not thereafter deny the relationship of landlord-tenant. The judgment in *Harjinder Singh's case (supra)* was distinguished on the ground that the possession of the property had been taken in that case.

Counsel for the petitioner has vehemently submitted that the respondent/landlord has an alternative remedy for recovery of rent also by way of filing civil suit and, therefore, the application has been wrongly rejected.

In the opinion of this Court, the respondent's claim was on account of non-payment of rent from October, 2006 at ₹1,100/- per month as per the rent petition dated 10.12.2014 (Annexure P-1). The notification was issued much later on 02.02.2015 and published on 09.04.2015. It is the case of the tenant himself that the award was only passed on 20.10.2015 (Annexure P-6) in which there is a mention that the ownership would vest on the deposit of the compensation and the possession shall be deemed to have been taken by the NHAI. It is the case of the petitioner now that compensation was deposited on 18.11.2015.

As noticed, the respondent is seeking ejectment on the ground of arrears of rent from the date of filing of the petition apart from the ground of personal necessity. It is not disputed that the present petitioner has not even chosen to file the written statement and has filed an application at the initial stage. Issues are yet to be framed. Certain legal rights would arise between the parties which would govern the rights of compensation which

have been deposited by the National Highway Authority. In such circumstances, to dismiss the eviction petition on the ground that the same has become infructuous would adversely affect the interest of the landlord. The judgment which has been relied upon by counsel for the petitioner is a case where the Appellate Authority had accepted the eviction petition and directed ejectment in spite of the fact that the ownership was no longer with the landlord as the land stood acquired and possession had already been taken. In such circumstances the said judgment is not applicable in the present facts and circumstances as the proceedings are in a stage of infancy.

Accordingly, there is no illegality or infirmity as such which would warrant interference in the order of the Rent Controller and the present revision petition is dismissed.

16.01.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No