

Civil Revision No.887 of 2015 (O&M) & other connected petitions

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

**1. Civil Revision No.887 of 2015(O&M)
Date of decision: 22.3.2017**

Dr. Sunil Grover and another **...Petitioners**

Versus

Kiranjot Kaur **..Respondent**

2. Civil Revision No.2101 of 2014(O&M)

Dr. Narinder Kharbanda and others **...Petitioners**

Versus

Anterjot Singh **...Respondent**

3. Civil Revision No.4342 of 2014(O&M)

Avtar Singh **...Petitioner**

Versus

Kiranjot Kaur **...Respondent**

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

Present: Mr. Mansur Ali, Advocate for the petitioners
(in CR No.887 of 2015).

Mr. Sanjiv Gupta, Advocate for the petitioner(s)
(in CR Nos.2101 & 4342 of 2014).

Mr. Sunil Garg, Advocate for the respondents.
(in all the petitions).

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Revision Nos.2101, 4342 of 2014 and 887 of 2015 as common questions of fact and law are involved in these petitions and the shops are situated in one building.

Challenge in the present petitions by the three tenants who are

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in occupation of Shop Nos. 1284/4A, 1284/4B and 1284/4 as per the eviction petitions filed by the Landlords who claimed themselves to be NRIs and are closely related being the mother and son, namely, Kiranjot Kaur and Anterjot Singh respectively. All the three petitions have been filed through power of attorney Sh. Harinder Singh under Section 13-B of the East Punjab Rent Restriction Act, 1949 (hereinafter referred to as “the Act”) husband of Kiranjot Kaur and father of Anterjot Singh.

The impugned orders declining leave to contest vide orders dated 5.2.2014, 27.5.2014 and 15.12.2014 passed by the Rent Controller, Patiala have been challenged in Civil Revision Nos. 2101, 4342 of 2014 and 887 of 2015 respectively.

The said Revision Petition No.887 of 2015 pertains to the shop No.1284/4 located at Anardana Chowk, Patiala and the boundaries of the shop were also given in the ejectment application (Annexure P-1). It is not disputed that the property in question was purchased vide sale deed No.4548 dated 16.7.2008 (Annexure P/3 in CR No.887 of 2015). The description of the numbers mentioned in the sale deed regarding the shops in question are 1284/4-B, 1284/4-C and 1281/4 (at page 78 of the said Civil Revision). The occupation of shop No.1284/4-C is stated to be that of Dr. Grover, the petitioner as per the sale deed.

It is thus apparent that shop no.1284/4 does not figure in the sale deed bearing No.4548 dated 16.7.2008 which had been appended as Annexure P/3 and found mention in the petition filed under Section 13-B of the Act. The specific objection had also been raised in the application under Section 18-A of the Act by the tenant namely Dr. Sunil Grover in the said case. The relevant portion of the application reads as under

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“10. That apparently as per eviction petition, the description of the property from which ejectment of the respondents-applicants has been sought is mentioned as shop No.1284/4 and as per the alleged sale deed bearing Wasika No.4548 dated 16.07.2008 claimed by the petitioner but no such property bearing No.1284/4 finds mentioned in the same and only properties mentioned are shops No.1284/4-B, 1284/4-C and 1281/4. Thus even as per the alleged sale deed as claimed by the petitioner she has no right to file the eviction petition and the same is liable to be dismissed on this score alone.”

The reply to the said para by the landlord is as under:-

“10. Reply to para No.10 of the application is that the applicant is just trying to twist the facts of the case by raising false plea one after the other. It is mentioned that the respondent is tenant in respect of shop No.1284/4. In the sale deed, since the petitioner has purchased the part of property No.1284/4, so it has been described as 1284/4B and 1284/4C as the remaining parts of property No.1284/4 which is one big building have been purchased by other persons. The applicant is not even denying the tenancy in the bold words and is trying to raise pleas only to delay the matter in dispute. The petitioner is the landlord the respondent is the tenant in the shop in respect of which the present petition has been filed.”

The Rent Controller, Patiala has thus given the benefit of the sale deed bearing No. 4548 of even date i.e. 16.7.2008 where the shop had been described as 1284/4-C which is not as per the case of the landlord who herself seeks eviction from shop no.1284/4 and not of 1284/4-C. The reasoning given is as under:-

“12. Third requirement was to show that the petitioner is

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owner of shop in question from the last more than five years. For this petitioner has relied upon Annexure-A, sale deed, as per which the shop mentioned as shop No.1284/4C, in possession of tenant Dr. Grover was sold by vendor Harinder Arora to petitioner on 16.7.2008. It has been specifically mentioned in the sale deed itself that the shop No.1284/4C has been in possession of Dr. Grover as tenant. The sale deed is of dated 12.7.2008 which means that petitioner has been owner of the property mentioned therein for the last more than five years. In order to rebut this, learned counsel on behalf of the respondents has contended that shop in question was never purchased by petitioner through the sale deed Annexure-A relied upon by him as in the head note of petition, petitioner has sought eviction of respondent from shop no.1284/4 and not from shop No.1284/4C. Firstly, there is no specific denial of respondent that there does not exist any relationship of landlord and tenant between the parties. Secondly, as per the sale deed Annexure-A itself the name of respondent no.1 was mentioned as Dr. Grover being tenant of shop No.1284/4C which was sold by vendor Harinder Arora to petitioner. Therefore, mere mention of the shop No.1284/4 in the head note of petition and not mentioning as 1284/4C does not at all affect the identification of the shop in questions.”

Counsel for the tenants thus submits that the sale deed attached was bearing no. 4548 until amendment was made in the heading, the impugned order is not justified and a triable issue was made out.

Mr. Sunil Garg, Advocate for the respondents on the other hand has tried to justify the said factum by arguing that two sale deeds in question bearing serial No.4548 and 4549 of the same date were executed. In sale deed bearing No.4549, the description of the shop is given as 1284-A along with shop No.1276/4 which is not the premises from which eviction is sought in Civil Revision No.887 of 2015.

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A perusal of the application under Section 13-B of the Act, would go on to show that the sale deed bearing No.4548 had been relied upon by the respective landlord and the shop had been referred to as 1284/4. The specific objection has been raised in this regard but the same has been considered over and above the pleaded case.

Thus, the order dated 15.12.2014 passed by the Rent Controller, Patiala declining leave to contest in such circumstances is not justified and based on misreading of the pleadings on the record and suffers from the patent illegality. Since under Section 13-B of the Act summary eviction can be availed off from one building whether residential, scheduled or non residential chosen by the landlord under sub Clause (2), it would be appropriate that the Rent Controller, Patiala also decides the other cases afresh. Accordingly, the same is set aside.

Accordingly, all the three Revision Petitions are allowed and orders dated 5.2.2014 and 27.5.2014 are also set aside.

Resultantly, keeping in view the above, the matters are remanded to the Rent Controller, Patiala for a fresh decision on the applications filed under Section 18-A of the Act.

The Rent Controller, Patiala shall make efforts to decide the applications under Section 18-A of the Act by 31.5.2017.

A photocopy of this order be placed on record of each connected case file.

March 22, 2017
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(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No

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