

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

CWP No. 12655 of 2015 (O&M)

Date of Decision: 15.03.2017

SITA RAM SHARMA

..... Petitioner

V/S

***PRESIDING OFFICER, LOK ADLAT, DISTRICT COURT, SECTOR-43,
CHANDIGARH AND OTHERS.***

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Rajesh Garg, Senior Advocate with,
Mr. Sundeep Kumar, Advocate,
for the petitioner.

Mr. P.C. Chaudhary, Advocate,
for respondent No. 2.

Mr. N.C. Wadhawan, Advocate,
for respondent No. 4.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has challenged the order dated 17.06.2014 passed by the Lok Adalat in Civil Suit No. 98 of 2005, titled as *Sita Ram Vs. Sunil Aggarwal and others*, filed by the petitioner and order dated 04.05.2015 passed by the trial Court.

In brief, respondent No. 3 (Ved Chawla) is the owner of the triple storey house bearing No. 3352, Sector 27-D, Chandigarh. She had allegedly executed a General Power of Attorney and a Will in favour of respondent No. 4 (C.K. Chawla). She has also entered into an agreement to sell of the entire house with respondent No. 2 (Sunil Kumar) on 22.08.2000.

It is alleged by the petitioner that respondent No. 2 has entered into an agreement with him in respect of the sale of 2nd Floor of the said house. A dispute arose between the petitioner and respondent No. 2 in respect

of the portion purchased by the petitioner for which an agreement was entered into by them on 18.03.2002 in which it was recorded that respondent No. 2 is not in a position to sell the property to the petitioner even though he had received ₹ 6,03,000/- which he would return to the petitioner without interest on or before 31.05.2002 and thereafter, the petitioner would hand over the peaceful and vacant possession of the property in question to respondent No. 2 upto 16.06.2002. According to the petitioner, respondent No. 2 did not abide by this agreement and rather threatened to interfere in his possession. In view thereof, the petitioner filed a Civil Suit No. 98 of 2005 for seeking a declaration that he is in possession as a prospective vendee and sought injunction from interfering in his possession of the property in dispute.

While this suit was pending, respondent No. 4 also filed Civil Suit No. 242 dated 18.11.2005 for recovery of ₹2,78,065/- as arrears of rent against respondent No. 2 and the petitioner on the ground that he had inducted respondent No. 2 as a tenant who had further handed over the possession to the petitioner by subletting respondent No. 4 also filed an eviction petition No. 20 under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 before the Rent Controller, Chandigarh for seeking eviction of respondent No. 2 and the petitioner on 06.05.2005. While all the suits/petitions were pending, the parties had reached at a compromise and the matter was sent by the Civil Court to the Lok Adalat.

Before the Lok Adalat, the petitioner, respondent No. 2 and respondent No. 4 recorded their separate statements on 07.06.2014.

Statement of the petitioner read as under:-

“Stated that as soon as Chand Kishore and Sunil Kumar will find out one residential house for me, I will immediately vacate house in question and will give it to Sh. Chand Kishore. So, I withdraw the present suit.”

Statement of respondent No. 2 read as under:-

“Stated that I undertake to pay ₹18 Lakhs to Sh. Sita Ram son of Sh. Musadi Lal and I also undertake to find out residential house alongwith Chand Kishore son of late Om Parkash for Sita Ram within one year. So, I withdraw the present suit.”

Statement of respondent No. 4 read as under:-

“Stated that I along with Sh. Sunil Aggarwal Son of Mahohar Lal will find out one residential house for Sh. Sita Ram within one year. So, I withdrawn the present suit and the other rent petitions which are pending in this Court and fixed for today”

Thereafter, impugned order dated 07.06.2014 (Annexure P-5) was passed which reads as under: -

“File put up in the Lok-Adalat. Defendant Sunil Aggarwal has got recorded his separate statement of even date that he undertakes to pay ₹18.00 Lakhs to Sh. Sita Ram son of Late Sh. Musadi Lal and he also undertakes to find out residential house alongwith Chand Kishore son of Late Sh. Om Parkash for Sita Ram within one year.

On the other hand, plaintiff Sita Ram has also got recorded his separate statement of even date that as soon as Sh. Chand Kishore and Sunil Kumar will find out one residential house for him, he will immediately vacate the house in question and will give it to Sh. Chand Kishore, so I withdrawn the present suit

Heard. In view of the statement of the parties, present suit is dismissed as withdrawn. File be consigned to the record room”

As a result of the aforesaid, the suit filed by the petitioner and the suit for recovery filed by respondent No. 4, eviction petition for seeking

eviction of respondent No. 2 and the petition filed by respondent No. 4 were all withdrawn.

After the order was passed, the petitioner realized that the order passed by the Lok Adalat is totally vague because he had suffered the statement under undue influence and coercion, much less, the said order is inexecutable. He filed an application for withdrawal of order dated 07.06.2014 and revival of the suit to be decided on merits. The said application has been dismissed vide the impugned order dated 04.05.2015 on the ground that if the petitioner did not understand the terms then he could have told this fact to the members of the Lok Adalat at that time when their statements were being recorded but from the file it reveal that there is nothing of that sort has been recorded or it can be inferred that the parties did not understand the terms of compromise or they were under undue influence or pressurized.

During the course of hearing, learned counsel for the respondents have categorically submitted that meaning of words “to find out one residential house” was only to find out a house for the petitioner on rent. Whereas, the case of the petitioner is that he had agreed for withdrawal of the suit understanding that the respondents would find out a house for the purpose of its purchase. This he says, on the basis of language used in the agreement as according to him, he had never taken possession of the property in question as a tenant rather he was in possession as a prospective vendee, in the said property, which is evident from the agreement dated 18.03.2002. He has also submitted that the issue as to whether the petitioner is a tenant, inducted by respondent No. 2, as stated by respondent No. 4 in his eviction, petition for seeking eviction is a pure question of fact which needs to be

adjudicated and the petitioner cannot be thrown out of this house only on the ground that he would be provided a residential accommodation.

Learned counsel for the respondents have submitted that the respondents have changed their position on the basis of the order dated 07.06.2014 otherwise they would have also contested their suit for recovery as well as their application for seeking eviction. It is, thus, submitted that if the said suit of the petitioner is revived then the suit for recovery and the petition for seeking eviction should also be revived otherwise it could cause injustice to them.

In this regard, learned Senior counsel for the petitioner, has not raised any kind of objection as according to him, the petitioner is not in possession of the property in question as a tenant but as a prospective vendee. Be that as it may, keeping in view of the aforesaid facts and circumstances where the petitioner is not satisfied with the arrangements made by the Lok Adalat which is vague as it has been understood by the respondents in different manner than the manner in which the petitioner has understood the same, therefore, in my considered opinion it would be just and expedient if the order dated 07.06.2014 is set aside alongwith order date 04.05.2015 by which an application filed by the petitioner for seeking revival of the petition has been dismissed and the matter is restored by way of revival of the suit filed by the petitioner for declaration and permanent injunction and revival of the suit filed by the respondent No. 4 for seeking recovery of the amount of rent and the eviction petition filed against respondent No. 4 and the petitioner on the ground of subletting etc.

Hence, the present petition is allowed. Order dated 07.06.2014 coupled with the order dated 04.05.2015 passed by the trial Court are hereby

set aside and as a result thereof, the suit filed by the petitioner i.e Civil Suit No. 98 of 2005, Suit No. 240 dated 18.11.2005 filed by respondent No. 4 and the eviction petition No. 20 of 2005, filed by him are all ordered to be revived.

Accordingly, the parties are directed to appear in their respective suits/petition on 18.04.2018.

March 15, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :	✓ Yes	/	No
Whether Reportable :	✓ Yes	/	No