

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1298 of 2015

Date of Decision: 16.01.2018

Ashok Kumar

...Petitioner

VERSUS

Jiwan Lal

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Hari Om Verma, Advocate
for the petitioner.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Varun Goyal, Advocate
for the respondent.

SURINDER GUPTA, J.

The petitioner was ordered to be ejected vide order dated 08.07.2013 from the demised premises, which comprised one room at first floor situated at Krishna Gali, Darshani Gate, abutting Sirhindi Bazar, Patiala bearing Municipal No. 3463/2, as fully detailed in headnote of the petition, on the ground that he had changed the user of demised premises from residential to commercial.

2. While affirming the conclusion drawn by learned Rent Controller, Patiala, Appellate Authority below has observed as follows:-

“21. In order to prove this ground, the appellant/respondent specifically denied the plea of the respondent/petitioner that initially at the time of taking the premises on rent, he is using the premises as shop as he is a goldsmith. He placed on record receipts Ex. R1 to Ex. R7. So, main bone of contention between the parties is whether the premises in question have been rented out to the

appellant/respondent for residential purposes or for shop. A bare perusal of the rent note Ex. P1 in which Clause 1, reads as follows:-

“1. That the house has been taken on rent by the tenant from Sh. Jiwan Lal.”

22. *Clause 4 reads as follows:-*

“4. That second floor of the house shall remain in possession of the landlord and he is entitled to rent out the same to any person or reside himself.”

23. *xx xx xx xx xx*

24. *Further, Ashok Kumar while stepping into the witness box as RW-1 admitted in his cross-examination that he had signed the rent note without going through the terms of the same he does not remember if at that time of engaging the counsel, terms of tenancy incorporated in the rent note are explained to him or not. He does not know if any premises, which is let out on rent whether commercial or residential, is subject to house tax. He himself admitted that the electric connection is for domestic supply/residential connection. He volunteered that he is making payment f electricity charges. So, mere placing on record Ex. R-1 to Ex. R-7 does not mean that the premises in question has been rented out for shop.”*

3. Reliance was placed on observations of Hon'ble Full Bench of this Court in case of ***Des Raj vs. Sham Lal, 1980 (2) RCR (Rent) 379***

identified as “house” in a lease deed, it would be taken that parties had used the expression “house” in the sense in which the house is understood in common parlance or as indicated by dictionary meaning. The building, which is essentially a residential building, even if is let out for non-residential purpose, shall continue to be a residential in the absence of written permission of the Rent Controller. In this case, the demised premises was let out as a house and admittedly on the top floor other tenants were residing. There is no consent or permission of the landlord to convert the building from residential to non-residential.

4. Learned counsel for the respondent while referring to statement of revision-petitioner recorded by learned Rent Controller pointed out that there was bathroom, toilet on the second floor, as such, this contention of the petitioner that there was no bathroom with demised premises, is without any merit. While pointing out to site plan, he has submitted that despite a room there was enough space on both sides of the room, which could be used as kitchen.

5. Learned counsel for the petitioner concedes that in the rent note dated 14.12.1987 (Ex. P-1), which was executed by revision-petitioner, tenanted premises has been mentioned as house. It is nowhere the case of revision-petitioner that he had executed this rent note without going through contents of the same.

6. In case of **Kuldip Singh vs. M/s Shiv Saran Das Rakesh Kumar, 1997 (3) PLR 572**, Hon'ble Division Bench of this Court has observed that change of purpose of tenancy is not permissible even if oral permission is taken. In the absence of written consent, change of user of the tenanted premises provides a ground for ejectment. Similar were

observations in case of **Dharam Raj and another vs. Roshan Lal and another 1993 (1) PLR 685 (DB).**

7. Keeping in view above facts and on going through judgments passed by learned Rent Controller and learned Appellate Authority below, I find no legal or factual infirmity therein calling for any interference in this revision petition, which has no merit and is dismissed.

January 16, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No