

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.2980 of 2009 (O&M)

Date of Order: 19.07.2018

Hira Lal

..Petitioner

Versus

Ram Lal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tribhawan Singla, Advocate,
for the petitioner.

Mr. Ashok Goel, Advocate,
for the respondent.

ANIL KSHETARPAL, J.

Landlord-petitioner is in the revision petition against the judgment passed by the learned appellate authority.

The question which needs consideration is:-

“Whether an unregistered lease deed/rent note of immovable property making a provision for increase of rent after every 3 years by 20% can be enforced?”

It is undisputed that the rent note between the parties was executed on 05.10.1998, starting the tenancy with effect from 01.10.1998. The rent agreed to be paid was Rs.2,000/- per month. As per rent note, period of tenancy was for a period of 11 months. However, at the end of the rent note, a note was given that after expiry of every 3 years of the tenancy, rent would increase by 20%.

Learned counsel for the petitioner has relied upon a Division Bench judgment of this court in the case of **Smt. Hardev Kaur and others v.**

M/s Ghazal Restaurant, Chandigarh, 1992 Current Law Journal, 704 to

contend that such clause can be enforced as the East Punjab Urban Rent Restriction Act, 1949 does not bar the agreement to increase the rent.

No doubt, the aforesaid Division Bench judgment do lay down as contended by learned counsel for the petitioner. However, there is a big hurdle in the path of the landlord-petitioner. If, a rent note is considered for a period beyond one year, it is required to be compulsorily registered under Section 17(1)(d) of the Registration Act, 1908. In the absence of the registration of the lease deed/rent note, such lease deed or rent note is not admissible in evidence.

Learned counsel for the respondent has relied upon two Single Bench judgments of this court laying down that such increase clause in case of an unregistered lease deed cannot be enforced. Reference in this regard can be made to the judgments passed in the cases of Satwant Kaur v. Narinder Singh, 2011 (1) RCR(Civil), 214 and Sunita Bansal and another v. Suresh Kumar Goyal, 2014 (12) RCR(Civil), 2273. Learned counsel for the respondent has further pointed out that the Hon'ble Supreme Court while deciding the appeal in the case of K.B.Saha and Sons Private Limited v. Development Consultant Limited, (2008) 2 SCC, 564 has held that the unregistered lease deed can only be used for collateral purpose. Paragraph 34 of the judgment is extracted as under:-

“34. From the principles laid down in the various decisions of this Court and the High Courts, as referred to hereinabove, it is evident that:-

- 1. A document required to be registered, if unregistered is not admissible into evidence under Section 49 of the Registration Act.*

2. *Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act.*
3. *A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.*
4. *A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards.*
5. *If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose.”*

In view of the aforesaid discussion, this court does not find any good ground to interfere with the order passed by the learned appellate authority.

The revision petition is dismissed.

July 19, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No