

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

116

CR No.2194 of 2018 (O&M)  
Date of Decision : 04.04.2018

Som Parkash

..... Petitioner

Versus

Nisha Rani (deceased) through LRs and others ..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr. Sumeet Mahajan, Sr. Advocate  
with Mr. Amit Kohar, Advocate  
for the petitioner.

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**AJAY TEWARI, J. (Oral)**

This appeal has been filed against the concurrent judgments and orders of the courts below evicting the petitioner from the demised property.

The petitioner had taken the premises on rent on 02.11.1997 @ Rs.2500/- per month but had not paid rent w.e.f. 02.04.1998 and consequently was liable for eviction on the ground of non payment of rent. In the written statement, the petitioner denied that that the respondent was the owner; denied that he was a tenant and rather set up the case that more than 12 years ago he had taken possession of vacant plot and had constructed the premises thereon and had now become the owner by way of adverse possession. The respondent examined a witness who had stated that

the tenancy was created in his presence. The courts below noticed that

no suggestion qua adverse possession or ownership was put by the petitioner to that witness. The courts below also relied on a compromise wherein the petitioner had accepted the ownership of the respondent. The respondent also proved the register of the Municipal Corporation showing her to be the owner. In his evidence the petitioner introduced a new actor in the drama i.e. one Jatinder Singh, RW-4 who started claiming that in fact he was the owner. That evidence was not considered by the courts below, being beyond pleadings. The courts below also noticed that by claiming adverse possession the petitioner had accepted the ownership of the respondent and ultimately allowed the eviction petition.

Learned Senior Counsel for the petitioner has argued that the courts below have erred in disregarding the testimony of Jatinder Singh.

In my considered opinion, if the petitioner had believed that Jatinder Singh was the owner he would not have taken the plea in the written statement that he had become the owner.

Learned Senior Counsel for the petitioner has further argued that the petitioner had placed on record a decree which Jatinder Singh had obtained against him.

In my opinion, even this decree could not have been taken into record because it was beyond pleadings as mentioned above. The plea of the petitioner was that he was the owner and therefore he could not be permitted to lead evidence to show that somebody else was the owner.

Learned Senior Counsel for the petitioner has further argued that the petitioner had placed on record another decree as per which he had become the owner.

In my opinion, even this decree cannot be taken into

consideration because it was beyond pleadings.

Consequently, the petition is dismissed with costs of Rs.30,000/- to be paid to the LR's of the respondent.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

April 04, 2018  
ashish

( AJAY TEWARI )  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | - | Yes/No |
| Whether reportable        | - | Yes/No |