

CR No.3339 of 2018(O&M) 1

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

**CR No.3339 of 2018(O&M)
Date of Decision:04.12.2018**

Hakam Rai

.....Petitioner

Versus

Madan Lal and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.A.S.Manaise, Advocate
for the petitioner.

LISA GILL, J.

Petitioner is aggrieved of order dated 19.07.2016, passed by the learned Rent Controller, Malout, as well as order dated 13.12.2017, passed by the learned Appellate Authority, Sri Muktsar Sahib. Eviction of the petitioner-tenant has been ordered by both the learned Courts below.

Brief facts necessary for the adjudication of the case are that a petition under Section 13 of the East Punjab Urban Rent (Restriction) Act, 1949, was filed by respondent no.1 claiming that the house in question was rented out to Jagga Ram, father of respondent no.2-Parkash Chand @ Gopla and Hakam Rai, the present petitioner at a monthly rent of ₹400/- per month. The present petitioner and other co-sharer of the property filed a civil suit for permanent injunction for restraining the respondents-tenants from changing the wall and roof of the property in dispute. The said civil suit was decreed in favour of the landlord thus establishing the relationship of landlord and tenant between the parties. The house was claimed to have become unfit for

human habitation and predecessor of respondent no.1 along with respondent no.2 wanted to change the roof and walls in order to avoid eviction therefrom. Rent was increased from ₹200/- to ₹400/- per month, which was paid to the brother of the landlord against receipt. However, they stopped paying the rent. It was further averred that frivolous suit for injunction against the landlord was filed by the tenants claiming themselves to be the owners of the property. Eviction of the tenants was sought on the ground of arrears of rent, *bona fide* personal necessity with the averments that the landlord wish to reconstruct the house for his own use. Premises were claimed to be unfit for human habitation.

Petition was resisted by the present petitioner as well as respondent no.2-Parkash Chand @ Gopla. It was claimed that the landlord-Madan Lal along with Chiman Lal, were the owners of the house and had given this house to Daya Nand, father of the present petitioner-Hakam Rai as well as Jagga Ram, father of Parkash Chand @ Gopla, who were in possession of the same. After the death of Daya Nand, Raja Ram, who is grandfather of respondent no.1, took possession of half share of the house and remaining half share remained with Jagga Ram. Raja Ram was looked after by the present petitioner-Hakam Rai, who during his lifetime gave possession of half share of the house to Hakam Rai vide a writing executed in the year 1992. After the death of Jagga Ram, Parkash Chand became owner of the remaining half share. Respondents claimed to be in possession of the house for the last more than 50 years. They relied upon the ration-card, voter-card, adhar-card as well as payment of the house tax and property tax to substantiate their case. Chiman Lal was claimed to have

orally agreed to sell the house to the father of respondent no.1 and of respondent no.2. The consideration amount was received by Chiman Lal in installments. However, Chiman Lal passed away and respondent no.1, it is submitted wish to grab the said house. Dismissal of the petition was prayed for.

From the pleadings of the parties, following issues were framed by the learned Rent Controller, Malout:-

1. Whether the respondent is in arrears of rent since 01.11.1997 to till date?OPP
2. Whether the respondent requires the house for his own use and occupation?OPP
3. Whether the respondent is tenant of petitioner?OPP
4. Whether the petition is not maintainable?OPR
5. Whether petitioner has no cause of action or locus standi to file the petition?OPR
6. Whether petitioner has suppressed the material facts from this Court?OPR
7. Whether the petitioner has not come to Court with clean hands?OPR.
8. Relief.

Both the parties led evidence in support of their respective claims.

Learned Rent Controller, Malout, on considering the facts and circumstances of the case concluded that the relationship of landlord and tenant between the parties stood proved. Eviction of the present petitioner was directed on the ground of *bona fide* personal necessity as well as on the ground of arrears of rent.

Appeal filed by the present petitioner was dismissed by the learned Appellate Authority, Sri Muktsar Sahib vide judgement dated 13.12.2017.

Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner vehemently argues that relationship of landlord and tenant between the parties does not exist. It is claimed that the house in question was sold by Chiman Lal to the respective fathers of the petitioner and respondent no.2. However, learned counsel for the petitioner is unable to deny that civil suit no. 280 dated 12.09.1997 filed against him was decreed on 18.01.1999. It was specifically pleaded in the suit for permanent injunction filed by Chiman Lal against Jagga Ram that defendants therein were tenants, with further pleadings that the house in question was constructed 50 to 60 years prior to the filing of the suit, which had become unsafe for human habitation and that only with a view to avoid eviction, tenants were trying to repair the suit property. They were sought to be restrained. This suit was decreed in favour of Chiman Lal and Madan Lal. This relationship has not been denied in the said proceedings, which have admittedly attained finality.

Respondent no.1-landlord, has placed on record Ex.P-2, jamabandi to prove his ownership over the property. A mere writing sought to be relied upon by the petitioner to prove transfer of title, is certainly not acceptable. There is indeed no evidence on record to indicate a relationship other than that of a landlord and tenant between the parties. Proving of electricity bills, ration-card, income tax returns etc., by it itself is not sufficient to prove ownership of the petitioner over the suit property. It can further not be denied that the rent in question was not paid. Therefore, both the learned Courts below, have rightly allowed the petition filed by the respondent no.1, after proper appreciation of the evidence on record.

No other argument has been raised.

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Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 19.07.2016, passed by the learned Rent Controller, Malout as well as order dated 13.12.2017, passed by the learned Appellate Authority, Sri Muktsar Sahib, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to cost.

04.12.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.