

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

**Civil Revision No.4185 of 2015 (O&M)
Date of Decision:January 18, 2018.**

Jagdish Rai

.....PETITIONER(s).

VERSUS

Madan Lal

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.K. Singal, Advocate
for the petitioner (s).

Mr. Vikrant Pamboo, Advocate
for respondent No.

SURINDER GUPTA, J.

This is revision petition against the judgment passed by Appellate Authority, Ambala dated 30.03.2015, whereby the appeal filed by respondent against the order of ejectment passed by Rent Controller, Ambala was accepted and the petition filed by the revision petitioner was ordered to be dismissed on the ground that there is no relationship of landlord and tenant between the parties.

Petitioner in his petition under Section 13 of Haryana Urban (Control of Rent and Eviction) Act, 1973 has pleaded that respondent is a tenant in Shop No.71 (Municipal No.1420, block No.12), Motor Market, Ambala City @ ₹10,000/- per month.

Respondent denied the relationship of landlord and tenant with

the revision petitioner and pleaded that he is in possession of the disputed shop in his capacity as owner on the basis of '*Pratigya Patra*' executed by Sohan Lal in his favour. He admitted that the shop in dispute was earlier owned by Ram Sarup father of petitioner, and he sold the same to Sohan Lal son of Inder Singh, who further sold it to the respondent. However, both the sales were not made by way of any sale deed but by some unregistered document (*Pratigya Patra*) executed by Ram Sarup and then Sohan Lal.

Though elaborate arguments were advanced before the Appellate Authority regarding the title of the respondent but without going into these documents (rightly so), the Appellate Authority observed in para 14 and 15 of the judgment as follows:-

“14. Having due regards to the contentions raised by learned counsel for the parties, in the present case the present appeal has been filed by the appellant-respondent on the ground that the petition before the Rent Controller was filed seeking ejectment of the present appellant on the ground of arrears of rent and personal necessity of the premises in question qua son of the respondent-petitioner. In the written statement, the appellant-respondent has denied the relationship of landlord and tenant between the parties. The learned Rent Controller had gone into the question of ownership of the property being alleged by both the parties on the basis of documents. The present appellant-respondent has specifically denied the relationship of landlord and tenant and has asserted that he has purchased the property from one Sohan Lal son of Inder Singh who has in term had purchased the property from one Ram Sarup. While the respondent-petitioner has alleged ownership

of the property on the ground that the property in question was originally allotted to Ram Sarup by Municipal Committee as is evident from Ex.P4. In this regard he has also referred to the record of the Municipal Committee, wherein Jagdish Rai has been shown as owner in Ex.P3 i.e. assessment register of Municipal Committee.

15. To support the factum that there is relationship of landlord tenant between the parties, the respondent-petitioner has mainly relied upon the statement of PW7 Ramesh Kumar made by him in his affidavit Ex.PW7/A which was tendered by him as well as affidavit Ex.PW8/A tendered by petitioner himself while appearing as PW8. It is well settled that the Rent Controller cannot assess the arrears of rent when the tenant has denied the relationship of landlord and tenant. It is the duty of the Rent Controller to decide the question of relationship of landlord and tenant. Therefore, the Rent Controller has to decide the question of relationship between landlord and tenant. In the present appeal as observed above, the respondent-petitioner has led evidence in the shape of PW7 and PW8 i.e. only oral evidence but no witness has been examined in whose presence any rent whatsoever was received by the respondent-petitioner from his tenant i.e. present appellant. No receipt in this regard has been placed on record though it was the case of respondent-petitioner that his father Ram Sarup nor he himself ever executed any rent note in favour of any person. Said evidence in the shape of PW7 and PW8 cannot be said to be sufficient to prove the relationship of landlord and tenant between the parties to the petition. Once the landlord fails to prove the said relationship, then tenant is not liable to be evicted under the Rent Act. In this

regard, reliance can be placed on case titled as **Tribhuvanshankar Vs. Amrutlal 2014(1) Civil Court Cases 360(SC) and Ambala Bus Syndicate (P) Ltd Vs. Indira Motors 1969 R.C.R. (Rent) 695 (P&H).**”

Learned counsel for the revision petitioner has argued that the shop was admittedly owned by Ram Sarup father of the revision petitioner, who has since died. Respondent is in possession of the shop and is claiming title over it which he has utterly failed to prove by producing any document on file regarding transfer of title of the shop in his favour. *Pratigya Patra* alleged to be executed by Ram Sarup and then Sohan Lal son of Inder Singh, cannot be treated as document of title of immovable property and the consequent conclusion can be drawn that status of possession of the respondent over the shop is as tenant under the petitioner.

On giving a careful thought to submission of learned counsel for the petitioner and on going through the judgment of the Appellate Authority and record of lower court, I find no merits in the submission of learned counsel for the revision petitioner. Respondent is denying his status as tenant in the disputed shop. Admittedly, there is no evidence regarding payment of rent either to the petitioner or his father. Petitioner has nowhere alleged as to when the shop was let out or that the respondent had paid rent at any point of time to his father. No evidence has been produced regarding the receipt of rent of the shop in dispute by respondent or his father at any point of time. Onus was heavily on the petitioner to prove that the possession of the respondent over the shop in dispute is as tenant. Even in the Municipal record, status of the respondent is not recorded as tenant in the disputed shop.

The entire stress of the petitioner in the case is to prove his title over the disputed shop. Title of the disputed shop does not fall within the domain of Rent Controller under the Rent Act to decide. The revision petitioner on the basis of his title has other remedies to avail and it is for the civil court to decide as to whether on the basis of title, revision petitioner is entitled to possession of the demised shop.

As the petitioner has utterly failed to prove relationship of landlord and tenant and I find no reason to interfere with the order of the Appellate Authority. Consequently, this revision petition has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

January 18, 2018.
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***