

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CIVIL REVISION NO.4369 OF 2018 (O&M)

DATE OF DECISION: NOVEMBER 19, 2018

Smt.Kailash Chopra

.....Petitioner

Versus

Prem Madan and another

.....Respondents

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA**

**Present:** Mr.Rajender Kumar, Advocate for the petitioner.

<><><>

***TEJINDER SINGH DHINDSA, J.***

CM No.13660-CII of 2018

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 394 days that has occurred in filing the accompanying revision petition.

2. It was imperative for the petitioner to have explained each day of delay. The grounds cited in the application cannot be taken to be valid justification for the inordinate delay of 394 days.

3. Prayer is declined.

4. Application dismissed.

Main case

5. This is tenant's revision against the concurrent ejectment orders passed by the authorities below on the ground of non-payment of rent as also sub-letting.

6. Brief facts of the case are that Prem Madan,

respondent No.1 herein filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 seeking ejectment of the petitioner herein from the demised premises. In the petition, it was averred that he is the GPA holder of the original allottee of the demised premises, namely, Shri Virender vide GPA Document No.27158 dated 27.11.2000 registered in the office of Sub Registrar, Delhi. The demised premises have been rented out to Bhushan Chopra on a monthly rent of Rs.1,500/- excluding electricity and water charges in the month of December, 2000. Bhushan Chopra without any intimation to respondent No.1 herein left the tenanted premises and sublet the same to the petitioner, namely, Smt.Kailash Chopra and without the consent/permission of Prem Madan. Upon being confronted, Bhushan Chopra agreed to continue paying rent @ 3,500/- per month. Such quantum of rent was paid upto 15.3.2009, but thereafter the rent was not paid and Prem Madan, respondent No.1 was intimated that henceforth the petitioner herein would pay the rent. Such arrangement was not acceptable to respondent No.1 herein and since the rent had not been paid from 15.3.2009 onwards and the arrears of rent had swelled to the tune of Rs.1,39,020/-, the petition for eviction was filed on the ground of non-payment of rent as also sub-letting of the demised premises.

7. Upon notice having been issued, the petitioner herein contested the same and filed a reply. The relationship of landlord and tenant was denied. Rather it was stated that she is the owner in possession of the demised premises and respondent

No.1 herein being her son-in-law had fraudulently obtained the file of demised premises and had assured that he will get the same transferred in her name. She further claimed to be residing in the demised premises in the capacity of owner for the last 11 years.

8. The Rent Controller, Faridabad vide order dated 28.11.2014 allowed the petition and the present petitioner was directed to hand over vacant possession of the demised premises within two months of the date of passing of the order. Further directions were also issued to pay the arrears of rent to the tune of Rs.1,39,020/- along with interest @ 8% per annum to respondent No.1 herein from the date of filing of the petition till actual realization. The petitioner herein preferred a rent appeal and the same has been dismissed vide judgment dated 7.3.2017 passed by the Appellate Authority, Faridabad, thereby affirming the ejectment order passed by the Rent Controller.

9. Resultantly, the instant revision petition.

10. Counsel representing the petitioner has argued that the Courts below have proceeded on conjectures and surmises. Further argued that the evidence led by the petitioner towards ownership of the demised premises has not been appreciated and has been brushed aside. Yet another submission raised by counsel is that even though respondent No.1 was claiming to be the landlord, yet no rent receipts had been adduced on record to prove relationship of landlord and tenant *inter se* the parties.

11. Having heard counsel for the petitioner at length and having perused the impugned judgments, this Court is of the

considered view that there is no merit in the instant petition and the same deserves to be dismissed.

12. It is a case where respondent No.1 herein in order to prove himself to be the landlord of the demised premises had examined PW2 Yogesh Kumar, ALM SDO (Sub Division) City Ballabgarh (Faridabad) and who duly proved that the electricity connection had been installed in the demised premises in the name of respondent No.1. PW3 Brahamjeet, Clerk, Housing Board Haryana had been examined and who had deposed that as per record of the Housing Board, the demised premises were allotted to Shri Virender and that on the letter of allotment, Prem Madan i.e. respondent No.1 herein had appended his signatures as GPA of Shri Virender. PW3 further deposed that as per record, Prem Madan is still a GPA holder of Shri Virender. The testimony of PW3 Brahamjeet would be crucial as he had further proved that the instalments in respect of the demised premises had been deposited by Prem Madan with the Housing Board on behalf of the original allottee. Even PW5 Sanjay Kumar had been examined and who proved his signatures as an attesting witness on the will, Exhibit P12, dated 27.11.2000 which had been executed by the original allottee in favour of Prem Madan qua the demised premises. The concurrent view, as such, taken by the Courts below with regard to respondent No.1 being the landlord of the demised premises is based on due appreciation of evidence adduced on record.

13. Possession of the petitioner herein of the demised premises was not in dispute. The question that required to be

determined was as to in what capacity she was in possession thereof.

14. Petitioner herein had taken a stand that she is the owner in possession and had given Rs.60,000/- to Prem Madan/ respondent No.1 in the month of November, 2000 in the presence of family members and other respectable members of the Society i.e. Sanjay Sahai and Devi Singh. Having stepped into the witness box, petitioner herein has stated that she had regularly paid the electricity charges, sewerage charges and the instalments of the demised premises. However, no evidence whatsoever was adduced by the petitioner to substantiate such plea. Even as regards the handing over of Rs.60,000/- to Prem Madan/ respondent No.1 is concerned, RW2 Devi Singh stated that such amount had been paid between July, 2000 to November, 2001, whereas the petitioner while appearing as RW1 stated that the entire payment had been made in one instalment. RW3 Sanjay Sahai did not mention about any amount being given by the petitioner in favour of respondent No.1.

15. Even though a plea had been taken that respondent No.1 Prem Madan had taken advantage of the relationship *inter se* the parties, being son-in-law of the petitioner and, as such, a fraud had been played but counsel concedes that no complaint at any point of time had been filed before the police authorities/ competent authority as regards the fraud that had been allegedly played upon her. It is strange that even though the petitioner claims to have purchased the property from respondent No.1 in the year 2000, yet no evidence was forthcoming to demonstrate

that any step had been taken by her to get the transfer of the demised premises in her name with the concerned authorities/ Housing Board, Ballabgarh.

16. The submission raised by counsel as regards rent receipts not being produced by respondent No.1 even though claiming to be landlord would not be of any consequence. Such a plea would not be even available to the petitioner as she was claiming to be in possession of the demised premises not as a tenant/licensee, but in the capacity of being owner and which she has miserably failed to prove.

17. For the reasons recorded above, no infirmity is found in the impugned judgments passed by the Rent Controller, Faridabad as also the Appellate Authority. The instant petition, as such, is dismissed on merits as well as on the ground of delay.

18. Dismissed.

NOVEMBER 19, 2018  
SRM

( TEJINDER SINGH DHINDSA )  
JUDGE

|              |                                   |               |
|--------------|-----------------------------------|---------------|
| <b>Note:</b> | <i>Whether speaking/reasoned:</i> | <i>Yes/No</i> |
|              | <i>Whether Reportable:</i>        | <i>Yes/No</i> |