

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

CR No.4575 of 2018 (O&M)

Date of decision : 24.07.2018

Vivek Shokeen

...Petitioner

Versus

Kalawati

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Rana, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Tenant-petitioner is in the revision petition against the judgment passed by the learned Appellate Authority ordering his eviction while reversing the judgment passed by learned Rent Controller.

Respondent-landlady claiming to be the owner/landlady of the house No.489, L.B. Enclave, Sector 49-A, Chandigarh, filed a petition claiming that she is old lady residing separately from her children and husband and now due to her old age, she wants to shift to Chandigarh as better medical facilities are available there. It was further claimed that the petitioner-tenant has paid rent upto only February, 2009 and thereafter he did not pay the rent.

The petitioner-tenant pleaded that Sh. V.N. Kukreti is the owner and the landlord and relationship of landlord and tenant was denied.

It was also claimed by the petitioner that the suit for injunction was filed

against Sh. V.N. Kukreti, which was decreed ex parte on 17.04.2010.

Learned Rent Controller dismissed the petition, whereas the learned Appellate Authority has reversed the order passed by the learned Rent Controller.

It is the case of the landlady as well as the petitioner that premises in question was rented out through Sh. O.P. Bhargav who is Secretary of the Housing Society. Sh. O.P. Bhargav has appeared in the witness-box as PW2 and has stated that he had leased out the premises on behalf of the respondent-landlady and not on behalf of Sh. V.N. Kukreti as alleged by the petitioner. In order to prove her right, title or interest in the property, the petitioner appeared in the witness-box as PW1 and also brought on file the documents namely transfer certificate Ex.P1, Copies of receipts issued by Labour Bureau Employees Cooperative Societies Ex.P2 to Ex.P7 and copy of electricity bills in her name. The petitioner did not object to the aforesaid documents when they were exhibited. He only objected to the admission of Ex.P9 affidavit dated 05.05.2014 on the ground of mode of proof. The Appellate Authority on examination of the evidence have found that the petitioner has taken a false plea and in fact he is tenant under the respondent landlady.

Learned counsel for the petitioner has submitted that once the relationship of landlord and tenant has been disputed, authorities under the Rent Act loses jurisdiction.

In the considered opinion of this Court, argument raised does not have substance regarding mere denial relationship of landlord and tenant, the jurisdiction of the Rent Controller stand ousted. It is only in the

cases where complicated questions of title are involved, the Rent Controller can refer the parties for getting their relationship decided.

However, in the present case, as noticed earlier, the petitioner-tenant also claims that he has taken the premises on rent through Sh. O.P. Bhargav. Only difference is that the petitioner claims that Sh. O.P. Bhargav rented out the premises to him on behalf of Sh. V.N. Kukreti whereas Sh. O.P. Bhargav appeared in evidence and have stated that he had leased out the premises to the petitioner on behalf of landlady i.e. Smt. Kalawati. In such circumstances, the petitioner is not denying his status as a tenant. Once the petitioner is not denying his status as a tenant, the only question which was required to be decided was whether the landlord is Sh. V.N. Kukreti or landlady is Smt. Kalawati-respondent herein.

In view of the fact that landlady has proved her ownership and Sh. O.P. Bhargav has stated that the property was leased out to a tenant on behalf of respondent landlady, this Court does not find that in the facts of the present case, the jurisdiction of the Rent Controller gets ousted.

In the considered opinion of this Court, the plea taken by the tenant is a dishonest plea. On the one hand, the petitioner admits that the property was leased out to him through Sh. O.P. Bhargav, on the other hand, he filed a suit for injunction against Sh. V.N. Kukreti which was decreed ex parte. Sh. V.N. Kukreti has not been examined by the petitioner although the petitioner claims that Sh. V.N. Kukreti is his landlord. In such circumstances, it was the duty of the petitioner to produce Sh. V.N. Kukreti in Court to prove that fact.

Still further, Sh. O.P. Bhargav when examined as PW2 has

stated that he use to collect the rent from the petitioner-tenant and pay the same to the landlady and rent has been paid only upto February, 2009 and thereafter he stopped paying the rent. The petitioner has not produced any evidence to prove that he had been paying the rent to Sh. V.N. Kukreti thereafter.

Still further, the eviction has been sought on the ground of non-payment of the rent and personal necessity. The age of the respondent-Kalawati is more than 70 years and as per her claim, she is suffering from various ailments and needs better medical facilities.

In view of the aforesaid, there is no ground to interfere.

Revision petition is dismissed.

24.07.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No