

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

CR No.4766 of 2017 (O&M)
Date of decision : 09.07.2018

Kulwant Singh Sethi

...Petitioner

Versus

M/s Sanger Finlese Private Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bikramjit Aroura, Advocate for the petitioner.

Mr. Harinder Kumar Aurora, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The sub-tenant/petitioner is in the revision petition against the order passed by the Appellate Court evicting the petitioner on the ground of sub-letting without prior consent of landlord.

Some facts would be required to be noticed.

Amritsar International Hotel was a unit of Punjab Tourism Development Corporation, State Government Undertaking. Amritsar International Hotel was sold to M/s Sanger Finlese Private Limited, the petitioner before the Rent Controller and respondent No.1 herein. Hence, respondent No.1-herein filed a petition seeking eviction of the sub-tenant/petitioner herein on non-payment of the rent and sub-letting by respondent Nos.1 and 2, the original tenants for a valuable consideration to respondent No.3-sub-tenant/petitioner herein.

Learned Rent Controller dismissed the petition. However, the learned Appellate Authority has reversed the judgment passed by the learned Rent Controller.

Learned counsel for the petitioner has submitted as under:-

1. Punjab Tourism Development Corporation, erstwhile owner had been issuing receipts to the petitioner and, therefore, the tenancy between the petitioner and the owner has been established.
2. Only a photocopy of the alleged rent note Ex.AW4/B has been produced and, therefore, it cannot be read in evidence.
3. The petitioner has filed an application under Order 41 Rule 27 CPC for permission to lead additional evidence before the First Appellate Court which has been wrongly dismissed.

It may be noted here that original tenants i.e. respondent Nos.1 and 2 did not appear in spite of service of notice. The petitioner herein sub-tenant when cross-examined on this aspect, feigned ignorance whether the shop in question was taken on rent by respondent Nos.1 and 2. However, he admitted that rent note Ex.AW4/B bears the signatures of Kuldeep Singh (respondent No.1 in the eviction petition) at point A to D. He even went on to admit that the shop in question might have been given on rent to respondent Nos.1 and 2. In such circumstances, the finding of the learned Appellate Authority that the petitioner herein is a sub-tenant without written consent of the landlord does not suffer from any error.

Argument of the learned counsel that he has been paying rent to the Punjab Tourism Development Corporation directly would also not improve the case of the petitioner as the petitioner himself has stated that

earlier he was running a company under the name of M/s K.S. Travels Private Limited and rent was being paid from the account of the aforesaid company. At present, the petitioner herein is running a company under the name and style of M/s Sethi Forex Private Limited. Still further, mere acceptance of rent from sub-tenant does not improve the status from a sub-tenant to a tenant. Such acceptance of the rent would at the most be treated as accepting the amount as mesne profits for use and occupation of the premises or on rent on behalf of the landlord.

The tenancy is always result of agreement between the parties. Such agreement can either be in writing or can be gathered from the conduct of the parties. Every lease deed more than a period of one year with respect to immovable property is required to be compulsorily registered as per Section 17 of the Registration Act, 1908. In the present case, counsel for the petitioner could not bring to the notice of the Court any written contract executed by the Punjab Tourism Development Corporation, erstwhile owner in favour of his client.

Learned counsel further could not point out from the conduct of the officials of the Punjab Tourism Development Corporation which would help the Court in concluding that the petitioner herein was accepted as a tenant.

Next argument of the learned counsel is with regard to the photocopy of the rent note Ex.AW4/B. Learned counsel was requested to point out whether any objection taken by the petitioner when the alleged photocopy of the rent note was produced. However, learned counsel could not point out such objection. The rent note has been exhibited on the file.

The petitioner herein admits the signatures of respondent No.1-Kuldeep Singh on the aforesaid rent note. He has went on to admit that the shop might have been given on rent to respondent Nos.1 and 2. In such circumstances, arguments of the learned counsel for the petitioner herein has no force.

Last submission of the learned counsel is with regard to the dismissal of the application for additional evidence. It may be noted that through the additional evidence, the petitioner was seeking to produce on place on record the photocopies of the receipts showing the payment of the rent. The receipts originally produced have already been considered and it has been held that these receipts do not prove that the petitioner herein is not a sub-tenant. Hence, merely because some more receipts of payment of rent to the Corporation are permitted to be produced in evidence, it would not have improved the case of the petitioner.

In view of the discussion made above, this Court does not find any good ground to interfere with the order passed by the learned Appellate Authority.

Revision petition is dismissed.

09.07.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No