

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Revision No. 4741 of 2018(O&M)

Date of Decision: October 17 , 2018.

Subhash Deswal

..... PETITIONER (s)

Versus

Adesh Kumar

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Amarjit Markan, Advocate with
Mr. Kanwal Goyal, Advocate
for the petitioner.

Mr. Ashwani Gaur, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This revision petition has been filed challenging order dated 24.04.2018 (Annexure P1) whereby the learned Rent Controller, Jind has dismissed an application (Annexure P2) moved by the petitioner-tenant for adjourning the proceedings emanating from a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short, the 'Act') filed by the respondent-landlord.

Respondent-landlord filed a petition under Section 13 of the Act

seeking eviction of the present petitioner from the premises in question. The petitioner-tenant in his written statement contested the petition while taking a specific plea that the respondent is neither the owner nor landlord and has no concern with the shop in question. It was pleaded that the demised premises i.e., shop was taken on rent at the rate of ₹150/- per month from its owner Shanti Sarup on 01.10.1975. Thereafter agreement dated 04.07.1977 (Annexure P6) was entered into between Shanti Sarup and the petitioner, wherein it is mentioned that Shanti Sarup took a loan of ₹2,50,000/- from the petitioner with interest at the rate of 12% per annum. It is further mentioned therein that rate of rent of the demised shop which shall be received by the landlord would be ₹150/- per month for 25 years. The loan amount would be repaid by the landlord within 25 years with interest with a condition that in case of default thereof, the petitioner-Subhash Chander Deswal would become owner of the shop. A civil suit was filed by the present petitioner on 19.04.2018 during the pendency of the ejectment proceedings and after filing of the written statement in the present proceedings on 14.03.2018, an application (Annexure P2) was moved by the present petitioner for adjourning the proceedings under Section 13 of the Act, till final decision of the learned civil court in respect to the title of the property. This application was dismissed by the learned Rent Controller vide impugned order dated 24.04.2018. Aggrieved therefrom, this petition has been filed.

Learned counsel for the petitioner vehemently argues that the application (Annexure P2) filed by the petitioner has been dismissed by the learned Rent Controller in a perfunctory manner. Even a response from the respondent was not sought. It was incumbent upon the learned Rent Controller

to have called upon the alleged landlord to file reply, specifically to elicit a response whether the document dated 04.07.1977 attached as Annexure P6 is admitted or denied by him. Learned counsel for the petitioner relies upon the judgments of this Court in Puran Chand v. Kailash Chand through LRs and others, 2009(2) RCR(Rent) 408 and Nand Kishore v. Ved Parkash, 1999(1) RCR (Rent) 243. It is thus prayed that this petition be allowed and the impugned order dated 24.04.2018 passed by the learned Rent Controller, Jind be set aside.

Learned counsel for the respondent has opposed the prayer as addressed above. It is submitted that the respondent is the real/biological son of Shanti Sarup and an adopted son of Sunder Lal. The alleged agreement dated 04.07.1977 (Annexure P6) is specifically denied. It is contended that it is only in order to delay the matter that such a document has been set up and the civil suit has been filed subsequent to the filing of the petition under Section 13 of the Act by the respondent.

I have heard learned counsel for the parties and have gone through the file.

The petitioner seeks to challenge the relationship of landlord and tenant on the basis of the document dated 04.07.1977 (Annexure P6) allegedly executed between the predecessor-in-interest of the respondent, Shanti Sarup and the petitioner. At this stage, there is nothing on record to show that title of the said property was ever conveyed to the petitioner. In Puran Chand's case (supra), title was sought to be established by the landlord on the basis of a sale certificate issued by the State. Therefore, reliance by learned counsel for the petitioner on the said judgment is of no avail to him. Needless to say that though the question

of title is doubtlessly to be decided by the learned civil court, it is in the domain of the learned Rent Controller to finally conclude whether the landlord has been successful in establishing his case.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 24.04.2018 passed by the learned Rent Controller, Jind which calls for interference by this Court in exercise of revisional jurisdiction.

Accordingly, this petition is dismissed.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

October 17 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No