

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 4858 of 2018 (O&M)

Date of Decision: 26.11.2018

Transport Corporation of India Limited.

...Petitioner

VERSUS

Rajesh Khanna and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ved Parkash, Advocate
for the petitioner.

SURINDER GUPTA, J.

Respondent no. 1-Rajesh Khanna sought ejectment of revision-petitioner from the demised premises on the ground of non-payment of rent; it has been sublet to respondent no. 2; and revision-petitioner has changed user of the demised premises.

2. Revision-petitioner contested the ejectment petition on the ground that there is no relationship of landlord and tenant between the parties. It also denied that the premises has been sublet to respondent no. 2 and alleged that respondent no. 2 is simply a sister concern of petitioner. Plea of respondent no. 1 regarding the change of user of the demised premises was also contested and controverted.

3. Pleadings of parties led to framing of the issues as follows:-

(1) Whether the respondent is liable to be evicted from the demised premises on account of non payment of arrears of rent? OPA

(2) Whether respondent no. 1 has sublet the demised premises to respondent no. 2 without the written consent

of the petitioner? OPA

- (3) Whether the respondent has changed the user of the demised premises without the written consent of the petitioner? OPA
- (4) Whether the petition filed by the petitioner is not maintainable? OPR
- (5) Whether site plan filed with the application/petition is incorrect? OPR
- (6) relief.

4. While recording finding on issue no. 1, learned Rent Controller observed that the relationship of landlord and tenant is duly proved and ejectment of the petitioner was ordered on this score. On issue no. 2, learned Rent Controller held that revision-petitioner has failed to produce any document to prove that respondent no. 2 is its sister concern, as such, subletting of the demised premises is also proved. The plea of change of user of the demised premises was also upheld.

5. On appeal, learned Appellate Authority upheld the findings of learned Rent Controller that there exists relationship of landlord and tenant between the parties. It also affirmed the findings of learned Rent Controller on issues no. 2 and 3 as well.

6. Learned counsel for the petitioner has argued that the revision-petitioner in order to prove its plea that respondent no. 2 is its sister concern intends to produce on file some documents in additional evidence. When confronted with the fact as to why these documents were not produced before learned Rent Controller despite the fact that these were well within the possession and knowledge of petitioner, he could not put forth any

satisfactory reply or explanation. The foremost question, which is require attention, is the issue of relationship of landlord and tenant. Admittedly, the premises was let out by Om Piyari, who vide gift deed dated 14.08.2002, gifted this property to respondent no. 1. Despite pleadings to this effect by respondent no. 1, revision-petitioner denied the relationship of landlord and tenant between the parties. Learned Rent Controller as well as learned Appellate Authority on the basis of documentary evidence on file have rightly held that the revision-petitioner is liable to be ejected from the demised premises on this sole ground. Admittedly, the premises is in possession of respondent no. 2. Respondent no. 1 has taken the plea that respondent no. 2 is its sister concern but failed to produce any evidence in this regard, as such, finding recorded by Courts below that the premises has been sublet also calls for no interference.

7. The above finding recorded by Courts below regarding change of user of the demised premises does not call for any further scrutiny in detail. No fault can be found with the finding of lower Court that the revision-petitioner is liable to be ejected from the demised premises on the ground of non-payment of rent. Consequently, this petition has no merit and the same is dismissed.

November 26, 2018

jk

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No