

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 5998 of 2017

Date of Decision : 21.02.2018

Ram Kishan

....Petitioner

Versus

Aman Bansal

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mukesh Mittal, Advocate
for the petitioner.

Surinder Gupta, J.

This is revision against order dated 21.07.2017 passed by learned Rent Controller, Charkhi Dadri, whereby application of tenant-petitioner seeking framing of additional issues was partly allowed. Revision petitioner vide application (Ex. P-3) sought framing of additional issues as follows:-

- (a) Whether the petitioner is owner of the premises in dispute as alleged in para no. 1 and 2 of the petition?
OPA
- (b) Whether there is a relationship of landlord and tenant between petitioner and respondent as alleged in para no. 2, 3 and 4 of the application? OPA
- (c) Whether shop and house i.e. which premises in which shape was let out to respondent from the very inception as alleged in the petition? OPA
- (d) Whether the petitioner has no *locus standi* and cause of action against the respondents? OPA
- (e) Whether the application is based on *mala fide* and bad intention as alleged? OPR
- (f) Whether the application is liable to be rejected for non disclosure of true facts as alleged in para no. 4a, 4b,

4d, 4e, 4f, 4g of preliminary objection of reply? OPR

- (g) Whether the petitioner has not mentioned necessary description required under rule 4 and 6 and the application is liable to be dismissed? OPR
- (h) Whether the alleged disputed release deed is illegal and void and does not confer any right to the petitioner in respect of premises in dispute and is not binding on the right of respondent as alleged? OPR
- (i) Whether in this petition complicated question of law and fact and question of title is involved and relationship is disputed in the reply of application. The Hon'ble Court has no jurisdiction to entertain and try this application and it is liable to be dismissed? OPR.

2. Learned Rent Controller allowed application to frame the issue at serial No. (b) as additional issue and declined the request for framing the other issues with the observation that these are not relevant as these relate to title of the property.

3. Learned counsel for the petitioner has argued that the landlord-respondent has inherited part of the suit property through a release deed in his favour and it will be a question to be seen as to how he can seek ejectment of the petitioner-tenant of entire property of which he is not owner. This is why issue has been sought to be framed regarding title of respondent-landlord over the suit property.

4. Admittedly, the suit property was owned by Smt. Savitri and she has transferred the title of this property (or part of this property) in favour of respondent-landlord. This does not bar filing of application seeking ejectment of petitioner-tenant from the suit property by

respondent-landlord. Even if this plea of learned counsel for petitioner be believed that after execution of release deed, which the revision-petitioner has no *locus standi* to assail, respondent-landlord has become owner of part of the premises in question and remaining part remains with Smt. Savitri. Still the petitioner can raise a plea of his competence to file the petition being a co-owner and to pursue the remedy of seeking ejectment of petitioner-tenant from the demised premises. It will be for the Rent Controller to decide if a person can file petition seeking ejectment which he own with other co-owners.

5. Learned Rent Controller has no jurisdiction to go into the question of title over the suit property. Learned Rent Controller has rightly declined framing of the issues relating to title over the suit property as claimed by revision-petitioner (tenant). The order of learned Rent Controller suffers from no legal infirmity calling for any interference in this revision petition, which has no merit.

Dismissed.

February 21, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No