

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7550 of 2012 (O&M)
Date of Order: 27.09.2018

Ravinder Kumar

..Petitioner

Versus

Som Nath

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. H.S.Jugait, Advocate,
for the respondent.

ANIL KSHETARPAL, J(Oral)

Petitioner is in the revision petition against the orders passed by the learned Rent Controller ordering his eviction affirmed by the learned Appellate Authority.

Basic dispute between the parties is whether the petitioner is tenant under the respondent or not?

It is undisputed that there is no written rent note or tenancy or agreement between the parties. It is not disputed that the petitioner had entered into an agreement to purchase the property in dispute vide agreement to sell dated 03.10.2007 from the respondent and Rs.1,50,000/- was paid as earnest money. Further, there is a supplementary agreement dated 30.10.2007 when additional other amount of Rs.50,000/- was paid.

It is an admitted fact that the tenant filed a suit for specific performance of the agreement to sell in which respondent-Som Nath filed an

application that the suit be decreed on 10.06.2008 but the petitioner who was plaintiff therein failed to deposit the amount as ordered. Therefore, the aforesaid decree has not enured to the benefit of the petitioner. However, in the present case, dispute is whether petitioner is tenant or not?

Both the courts have drawn inference on the basis of the fact that the petitioner Ravinder Kumar (tenant) had sold his house vide registered sale deed dated 22.08.2007 in favour of Ram Gopal and, therefore, he would have taken some premises for his residence. Apart from this inference, both the courts have not found any evidence to prove that the petitioner was inducted as a tenant by Som Nath in the house in question before entering into an agreement to sell.

Still further, if one carefully reads agreement to sell dated 03.10.2007, it is specifically mentioned by Som Nath that he is owner in possession of the premises. In such circumstances, the inference drawn by both the courts is erroneous.

Further, learned counsel for the respondent could not point out even a single word to the effect that the petitioner is alleged to be tenant either in the suit for specific performance of the agreement to sell or in the agreement to sell in which he has been referred to as a tenant. Learned counsel for the respondent has relied upon judgment passed by the Court in the case of **Romesh Kumar alias Mesha v. Rama Kumari alias Rama Kundra, 2010 (2) Rent Law Reporter 134**. In the aforesaid case, dispute was whether owner is a landlord or not? Hence, facts of the aforesaid case are entirely different.

In view of what has been stated hereinabove, the revision petition is allowed.

Needless to say that the respondent would be at liberty to seek possession in accordance with law.

September 27, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No