

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8327 of 2016 (O&M)
Date of Order: 17.09.2018

Ashok Kumar Bhatia

..Petitioner

Versus

Khunti Bai and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Kunal Dawar, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Landlord-petitioner is in the revision petition against the order passed by the learned Rent Controller, dismissing the eviction petition, affirmed by the learned Appellate Authority.

In the present case, relationship of landlord and tenant as also ownership of the landlord has been disputed.

Respondents-tenants had taken a stand that Sh. Nanak Chand, who was the original owner had agreed to sell the property to Jagan Nath, uncle of respondent no.2 and received entire sale consideration and thereafter Jagan Nath Bhatia relinquished his share in favour of respondents.

Both the courts after appreciating the evidence have found that relationship of landlord and tenant is not proved. Learned first appellate court has very ably recorded the reasons for arriving at such finding, which

are extracted as under:-

“1. The case of the appellant, that the premises in question was given on rent in 1962 to the father of the respondent No.2 and husband of the respondent No.1 for Rs.2000/- per month, cannot be believed at all as in 1962 it is very impractical to presume such a huge/higher rent for such a small portion of the property.

2. Ex.RW1/A is the legal notice given by the appellant in which it has been admitted by the appellant that the property in question is in unauthorised and wrongful occupation of Jagan Nath Bhatia (brother of Jugal Kishore). Hence, this stand itself in contradiction with the claim of the appellant which gives doubt on the claim of the appellant. As the stand of the appellant in present case is that the respondents are in possession of the property in question as tenant and stand of the appellant in the legal notice is that the respondents are in unauthorised and wrongful occupation of the property in question and as both the stands are contradictory and hence, not tenable.

3. It is basic principle of civil pleadings that the plaintiff has no prove his case and has to stand on his own legs and he cannot take benefit of the weakness of the case of the defendant and in the present case arguments of the appellant that there are various infirmities/deficiencies in the defence taken by the

respondents, is not tenable in view of the peculiar situation when the appellant has failed to establish relationship of the landlord and tenant between the parties.

4. It is not a suit for declaration regarding ownership of the property as the appellant has argued that he has proved the ownership, rather the appellatn has filed rent petition and is duty bound to prove relationship of landlord and tenant between the parties but in the present case the appellant has failed to prove relationship of landlord and tenant either on the basis of oral evidence or on the basis of any documentary evidence.”

Learned counsel for the petitioner submitted that although no documentary evidence has come on file but PW1 and PW2 have deposed that respondents used to pay the rent. He further submitted that respondent no.6 and 7 when appeared in evidence have admitted that they are in possession before 1962.

This court has considered the submissions. However, it is not disputed that the total property is constructed on a plot measuring 66 square yards. The courts below have rightly concluded that the rent of Rs.2000/- in the year 1962 is very impracticable. Both the courts have further noticed that the petitioners failed to prove relationship of landlord and tenant, which is *sine-qua-non* for initiating the proceedings with the petition under Section 13 of the Haryana Urban (Control of Rent and Eviction)Act, 1973.

Mere oral evidence which has been disbelieved by both the

courts below, cannot be relied upon to reverse the findings of fact. The oral evidence has been appreciated by the courts below but not found reliable.

As regards, arguments of learned counsel that RW6 and RW7 have admitted their possession before 1962, it is suffice to notice that once the witnesses are examined after a long duration, there is bound to be certain variation. In the present case findings arrived at by the courts below after appreciation of evidence is not shown to be perverse.

Hence, this court does not find any good ground to interfere.

The revision petition is dismissed.

September 17, 2018
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(ANIL KSHETARPAL)
JUDGE

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