

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.891 of 2017 (O&M)
Date of decision : 30.04.2018

Sohan Lal Lalari (since deceased) through LRs

...Petitioners

Versus

Surinder Pal Singh (since deceased) through LRs and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravish Bansal, Advocate for the petitioners.

Mr. Aman Bahri, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The petitioner before this Court is now trying to wriggle out of the compromise arrived at by the Court and decree passed by the Court thereupon.

The plaintiff filed a suit for permanent injunction.

The defendant contested the suit. On 29.10.1996, the plaintiff suffered a statement, which reads as under:-

“It is stated that after ten years from today, i.e. on 31.10.2006 I will surrender the possession of the shop in dispute in favour of respondent Surinder Pal Singh. Till that period, the respondent will be entitled to use passage through the shop under my possession for going to the

backside room. At night a key of the lock which will be put on the shop, will remain with me and the second key will remain with the respondent so that he may be able to use it as passage at the time of need. From 1.11.1996 to 31.10.2006, I will pay Rs.300/- per month on account of use and occupation of the shop. The decision may be taken as per statement.”

On the basis of the aforesaid statement, the Court passed the judgment and decree. The operative part of the decree dated 29.10.1996, reads as under:-

“This suit coming on this 29th day of October 1996 before me (Bal Krishan Mehta PCS, Civil Judge Junior Division, Faridkot) in the presence of plaintiff and Sh. S.K. Jain Advocate counsel for the plaintiff and defendant with his counsel Sh. K.N. Khosla, Advocate, Counsel for the defendant. It is ordered and decreed plaintiff would continue to enjoy possession of shop in dispute for a period of 10 years from today and would hand over its possession to the defendant on 31.10.2006. From 1.11.1996 to 31.10.2006 he would pay Rs.300/- per month for its use and occupation to the plaintiff payment whereof be made either against receipt issued by the defendant or by way of money order or demand draft. It is further ordered, as per agreement between the parties, that defendant would have unobstructed right to use shop in possession of the plaintiff as a passage to room situated behind the shop in dispute during the day time and lock to be put over that shop in the nights would have two keys, one each to be kept by both the parties so that defendant may use the passage during the hours of closure of shop of plaintiff. No order as to costs.”

The aforesaid settlement was acted upon and the petitioners or

their predecessors i.e. Late Sh. Sohan Lal continue to enjoy the facility as provided in the statement dated 29.10.1996. Even after the expiry of the period, legal heirs of Sohan Lal refused to hand over the vacant possession which forced the Decree Holder-respondents to file the execution petition. Legal heirs of Late Sh. Sohan Lal filed objections which have been dismissed by the Executing Court. The Executing Court has held that the tenancy in favour of Sohan Lal is not proved and, therefore, the judgments being relied upon have no application.

Learned counsel for the petitioners has argued that the compromise arrived at in an injunction suit passing decree for eviction is without jurisdiction as the eviction can only be ordered as per the provisions of East Punjab Urban Rent Restriction Act, 1949. He has submitted that the eviction of a tenant cannot be ordered on the basis of the compromise unless the Court records its satisfaction that there exist a ground for eviction.

Learned counsel has relied upon the judgments passed by Hon'ble the Supreme Court reported as *(1970) 3 SCC 181, Shri Ferozi Lal Jain Vs. Shri Man Mal*, *(1990) 1 SCC 193, Sushil Kumar Mehta Vs. Gobind Ram Bohra*, and *(2003) 4 SCC 147, Sarwan Kumar and another Vs. Madan Lal Aggarwal*.

All these judgments are interpreting the provisions of various Rent Acts, in a situation where tenancy is not in dispute. In the present case, the tenancy itself is in dispute. It is the case of the Decree Holder from very beginning that the predecessor of the petitioners Late Sh. Sohan

Lal was not having full control of the premises and he was only keeping the utensils in the premises in dispute. Hence, these judgments would not have any application in the facts of the case.

The statement made by late Sh. Sohan Lal in the Court, has been extracted above. It is clear from the reading of the statement of Late Sh. Sohan Lal that second key of the premises was to remain with the Decree Holders and the Decree Holders would be entitled to use the premises as a passage at the time of need. Still further, it is stated by Late Sh. Sohan Lal that he will pay ₹300/- per month on account of use and occupation of the premises. Late Sh. Sohan Lal has not ever stated that he will be paying ₹300/- as rent.

From the careful reading of the aforesaid statement of Late Sh. Sohan Lal, the tenancy in favour of Late Sh. Sohan Lal is not proved. This is what has been held by the Executing Court also while dismissing the objections.

Still further, it would be against the public policy if the parties are allowed to resile from the statement given by them in the Court. In the present case, Late Sh. Sohan Lal or his successor-in-interest are estopped from resiling from the statement given by their predecessor in the Court particularly when they have already enjoyed the possession thereunder for a period of 10 years. Still further, even after expiry of 10 years, the petitioners have enjoyed the possession for a further period of more than 11 years.

In view of the aforesaid discussion, this Court does not find

any good ground to interfere with the impugned order passed by the
Executing Court.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are
disposed of, in view of the abovesaid judgment.

30.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No