

In the High Court of Punjab and Haryana at Chandigarh

CR No. 1536 of 2015

Date of Decision: 14.2.2019

Ajit Singh(since deceased) through his LRs

---Petitioner

versus

Mohinder Pal

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sandeep Bansal, Advocate, for the petitioner

Rekha Mittal, J.

The present petition directs challenge against concurrent findings of fact recorded by the courts whereby application for eviction filed under Section 13 of the East Punjab Urban Rent Restriction Act 1949 (in short “the Act”) for ejection of the respondent from residential premise marked by letters 'ABCDA', forming part of land measuring 5 kanal 8 marlas, situated in village Hambewal, Tehsil Nangal District Ropar, detailed in head note of the petition, was dismissed by the Rent Controller, Anandpur Sahib by negating plea of the petitioner (since deceased represented by his LRs) that there exists relationship of landlord and tenant between the parties and as such the petitioner is not entitled to invoke provisions of the Act for seeking eviction on any of the grounds raised by the alleged landlord. The findings recorded by the Rent Controller came to be affirmed by the Appellate Authority in appeal filed by unsuccessful petitioner.

Counsel for the petitioner, to assail consistent findings of the courts, has raised two fold submissions. It is argued that Mohinder Pal filed a suit claiming ownership on the basis of adverse possession and in the said

suit, he appeared as a witness. In his cross examination, he made certain vital admissions that go a long way to substantiate plea of the petitioner and negate version of the respondent with regard to relationship of landlord-tenant between the parties. Another submission made by counsel is that the respondent has raised a plea that he is owner of the property in question but the Rent Controller has accepted plea of the petitioner that he is owner of the suit house, therefore, it was for the respondent to prove as to in what capacity he is in possession of the suit property. It is argued that since the respondent has failed to establish his possession in any other capacity, as a necessary inference, he is to be considered as tenant in the property in question, thus, liable to be evicted on the grounds raised in the eviction application.

I have heard counsel for the petitioner, perused the paper book particularly the orders impugned but find that the present petition is devoid of merit and liable to be dismissed.

Before adverting to the submissions made by counsel, it is appropriate to recapitulate the legal position with regard to scope of intervention in concurrent findings recorded by the courts. Hon'ble the Supreme Court in **Hindustan Petroleum Corporation Limited vs. Dilbahar Singh 2014(4) RCR (Civil) 162** has held, quoted thus:-

“We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in

revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

There is a serious controversy between the parties with regard to existence or otherwise of relationship of landlord-tenant between Milkha Singh and Anant Ram, predecessor in interest of the parties to the litigation. Indisputably, contention of the petitioner in this regard does not find corroboration from any documentary evidence. Counsel has carried me

through statement of Mohinder Pal recorded in the earlier litigation but unable to convince this court that Mohinder Pal has admitted that tenancy was created in favour of Anant Ram much less at a particular rate of rent. In the given circumstances, Courts have rightly refused to accept contention of the petitioner on the basis of statement of Mohinder Pal recorded in the earlier litigation. Counsel has failed to point out any material on record in order to show that consistent findings suffer from material irregularity or illegality that would call for intervention in exercise of revisional jurisdiction. Even if plea of the respondent is not accepted that he is owner of the property though the Rent Controller being a Fora of limited jurisdiction cannot decide the question of ownership, in absence of the petitioner proving relationship of landlord-tenant between the parties, he cannot derive any strength to his contention from failure of the respondent to prove his ownership of the suit property.

In view of what has been discussed hereinbefore, finding no merit, the petition fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall cause prejudice to the petitioner to avail appropriate remedy in law for recovering possession from the respondent.

(Rekha Mittal)
Judge

14.2.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No