

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2413 of 2018 (O&M)

Date of decision:07.01.2019

Daman Kochar and another

...Petitioners

Versus

Rakesh Dhir and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Ekta Thakur, Advocate for the petitioners.

LISA GILL, J.

Petitioners are aggrieved of orders dated 30.05.2017 and 23.01.2018 passed by learned Rent Controller, SAS Nagar Mohali as well as learned Appellate Authority, SAS Nagar, Mohali, respectively.

Brief facts necessary for adjudication of the case are that petitioners filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act') seeking eviction of the respondents from the demised premises i.e. first floor of SCO No.48 Phase-2, Mohali, on the grounds that the tenants had ceased to occupy the demised premises for a period of over four months prior to the filing of the petition and that the demised premises was sublet by respondent No.1 to respondent No.2.

The present petitioners purchased the property in question vide a registered sale deed dated 09.11.2015 from Gurdeep Singh (predecessor). It was pleaded that respondent No.1 was inducted as a tenant by its previous owner Gurdeep Singh in 2001. The demised premises were, however, sublet to respondent No.2 without any authority or consent from the previous owner and respondent No.1 had ceased to occupy the demised property.

Learned Rent Controller dismissed the petition filed by the petitioners while concluding that the ground of non-payment of arrears of rent

did not survive as the tenants tendered the same. The petitioners did not press the ground of eviction of the tenants, for their having ceased to occupy the tenanted premises, as no evidence to this effect was led by them. It was concluded that subletting of the premises could not be proved. Appeal filed by the petitioners was also dismissed by learned Appellate Authority vide order dated 23.01.2018. Aggrieved therefrom, the present revision petition has been filed.

Learned counsel for the petitioners vehemently argues that respondent No.1 in his testimony, while appearing before the learned Rent Controller as RW1, has admitted that the premises in question were taken on rent by him alone in his personal capacity. Therefore, subletting of the premises is specifically admitted by him. It is submitted that there is gross misreading of evidence leading to a totally perverse finding against the petitioners. Evidence of RW1 has not been read in the correct perspective. Both the learned Courts below have, thus, erred in dismissing the petition filed by the petitioners. It is prayed that this revision petition be allowed, consequently allowing the petition under Section 13 of the Act as prayed for.

I have heard learned counsel for the petitioners and have gone through the file.

It is not in dispute that the premises in question were taken on rent by respondent No.1 from its previous owner (predecessor-in-interest of the petitioners), namely, Gurdeep Singh in the year 2001. Demised premises were purchased by the present petitioners in November 2015. It is proved that respondent No.2 is a partner of respondent No.1. It is a matter of record that respondent No.2 had been carrying on with their business in the demised premises since 2001 itself. Both the learned Courts below have specifically concluded that respondent No.2 is running the business alongwith respondent

No.1 from the very inception of tenancy. Business in the demised premises was being run by respondent No.1 alongwith respondent No.2, his wife and one Joginder Kaur. A partnership deed between all the four was duly executed on 01.08.2001. It was presented before the Bank while opening the bank account which was proved as Ex.R3. All the partners were having 25% share each in the business. Thus, it is proved on record that when the petitioners purchased the demised premises in November 2015, business was being run in the premises by both the respondents. The same was never objected to by its previous owner Gurdeep Singh. The tenancy is admittedly oral. There is no rent note or rent deed, which was entered into between the previous landlord and the tenant. In this view of the matter, both the learned Courts below have rightly held that subletting of the premises is not proved on record. It is a settled position of law that this Court while exercising revisional jurisdiction is not to enter into the domain of appreciation of evidence until and unless any perversity or illegality is pointed out.

It has been held by the Hon'ble Supreme Court in **Hindustan Petroleum Corporation Limited v. Dilbahar Singh**, (2014) 9 SCC 378 that this Court in exercise of revisional jurisdiction would not normally interfere in concurrent findings of fact until and unless the findings were found to be perverse based on misreading or ignoring of the evidence on record or due to a gross error of law apparent on record.

Learned counsel for the petitioners is unable to point out any perversity, illegality or error apparent on the face of it in the findings returned by both the learned courts below.

No other argument has been raised.

Keeping in view the facts and circumstances of the case, I do not find any ground whatsoever to interfere in the impugned orders dated 30.05.2017 and 23.01.2018 passed by learned Rent Controller, SAS Nagar,

Mohali as well as learned Appellate Authority, SAS Nagar, Mohali, respectively, in exercise of revisional jurisdiction.

Revision petition is accordingly dismissed with no order as to costs.

(LISA GILL)
JUDGE

January 07, 2019
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No