

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.3653 of 2015 (O&M)

Date of Decision.9.12.2019

Udham Singh

...Petitioner

Vs

Amrik Singh (D) through LR's and another

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. J.S. Thind, Advocate
for the petitioner.

Ms. Deepali Puri, Advocate
for respondent No.1.

Mr. Jashanpreet Sidhu, Advocate
for respondent No.2.

:-

JAISHREE THAKUR J.

1. This is a revision petition that has been filed seeking to challenge the order dated 02.03.2015 whereby the Rent Controller, Amritsar has dismissed the application filed seeking to lead secondary evidence to prove the rent note dated 07.09.1998.

2. In brief, the facts are that an eviction petition was filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the sole respondent on the ground of personal necessity. It was averred in the petition that tenancy was oral accompanied with delivery of possession and as per knowledge of the petitioner, no rent note was executed by the respondent at the time of creation of tenancy.

3. Respondent-tenant contested the eviction petition and filed written statement wherein a specific denial was made in sub para of para 1 on merits that "it is also incorrect to state that no rent note was executed".

Subsequent to the filing of the written statement, evidence was adduced and the statement of landlord was recorded as AW1.

4. An application under Section 151 CPC was filed wherein the tenant sought to adduce rent note executed by Manjit Singh and Darshan Singh in favour of the Smt. Manjit Kaur by way of secondary evidence. The application was contested and the Rent Controller dismissed the application on the ground that respondent by filing the written statement had denied relationship of landlord and tenant and therefore, could not be permitted to adduce secondary evidence qua the said document.

5. Learned counsel appearing on behalf of the petitioner herein submits that in the written statement filed, there was a denial to statement given that there was no rent note executed by placing reliance on words “it is also incorrect to state that no rent note was executed” and therefore, the Rent Controller erred in dismissing the application.

6. Per contra, learned counsel appearing on behalf of respondents No.1 and 2 submit that there is no infirmity in the order.

7. I have heard learned counsel for the parties and have perused the impugned order. The written statement as available on record shows that petitioner-tenant had denied that he had been inducted as tenant in the shop in dispute by Sh. Mukhtiar Singh as alleged, while also denying that alleged tenancy had been created by Mukhtiar Singh, which was oral, accompanied with delivery of possession. Para 1 of the written statement on merits is reproduced as under:-

“1. That para No.1 is wrong and denied. It is denied that the respondent was inducted as a tenant in the shop in dispute by Sh. Mukhtiar Singh as alleged. It is also denied that the alleged tenancy allegedly created by Mukhtiar Singh was oral accompanied with the delivery of possession. The fact remains that the property in dispute was previously owned by one Surinder Kumar son of Sh. Sohan Lal and that Sh.

Kartar Singh father of the respondent was inducted as a tenant in the property in dispute at a monthly rent of Rs.10/- which was subsequently increased to Rs.20/- and then to Rs.40/- p.m. This building of which the shop in dispute is a part was was residential house of the aforesaid Surinder Kumar. This building was purchased by Mukhtiar Singh son of Sh. Teja Singh from aforesaid Surinder Kumar. The rent of the property in dispute was increased from Rs.40/- per month to Rs.100/- p.m., therefore, the rent was further increased to Rs.150/- p.m. By Mukhtiar Singh which is quite evident from the fact that Sh. Kartar Singh father of the respondent deposited arrears of rent from 1.1.1995 to 30.04.1996 @ Rs.150/- for a sum of Rs.2150/- and further rent from 1.5.1996 to 31.5.1997 aforesaid for a sum of Rs.2015/- under Section 31 of the Punjab Relief of Indebtedness Act was deposited in the court of Sh. Jaswinder, Addl. Civil Judge (Sr. Divn), Amritsar. This falsifies the stand of the applicants with respect to the creation of tenancy in between the parties qua the shop in dispute.

The fact remains that the applicants are not the joint landlords and the respondent is not the sole tenant. It is also incorrect to state that no rent note was executed.”

A reading of the aforementioned clearly reflects that the petitioner herein had denied being inducted as tenant by Mukhtiar Singh, while claiming that the property in dispute had been owned by one Surinder Kumar son of Sh. Sohan Lal and that Sh. Kartar Singh, father of the respondent had been inducted as a tenant in the property in dispute. Once the tenant has taken a categorical stand that he had not been inducted as a tenant by Mukhtiar Singh, father and husband of the respondents, the question of leading evidence for production of rent note would not arise. It would amount to taking a contradictory stand. In the written statement there is no specific averment regarding existence of a rent note and the denial is

vague. The law in this regard is settled that denial has to be specific in nature as has been held in the judgments rendered by Hon'ble Supreme Court in *Gian Chand and brothers and another Vs. Rattan Lal @ Rattan Singh*(2013) 2 SCC 606 and *Jaspal Kaur Cheema and another Vs. M/s Industrial Trade Links and others etc.* (2017) 8 SCC 592. If at the very outset, the petitioner had taken a stand that he had been inducted under a rent note, the application would have been successful, which is not so in the present case. The revision petition is dismissed.

(JAISHREE THAKUR)
JUDGE

December 9, 2019

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No