

CR No. 6812 of 2018 (O&M)

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

CR No. 6812 of 2018 (O&M)

Date of Decision: February 06, 2019

Shri Bhagwan

..... Appellant(s)

Versus

Om Parkash

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.S. Malik, Advocate
for the petitioners.

LISA GILL, J.

The petitioner is aggrieved of judgment dated 28.07.2015 passed by learned Rent Controller, Sonipat as well as judgment dated 04.07.2018 passed by Appellate Authority, Sonipat.

A petition under Section 13 of Haryana Urban (Control of Rent & Eviction) Act, 1973 ('the Act' for short) filed by the petitioner seeking ejectment of the respondent from the premises in question was dismissed by the learned Rent Controller, Sonipat vide impugned judgment dated 28.07.2015. It was held that the petitioner had failed to prove the relationship of landlord and tenant between the parties. Appeal filed by the petitioner was also dismissed by the learned Appellate Authority, Sonipat.

Aggrieved therefrom, present petition has been filed.

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Learned counsel for the petitioner vehemently argued that both the learned Courts below have erred in rejecting the petition under Section 13 of the Act filed by the petitioner on the ground that the petitioner is not proved to be owner of the premises in question. It is urged that it is not incumbent upon the petitioner to prove ownership of the property. He is only to prove that he is the landlord as defined under the Act. Therefore, on the basis of the evidence on record, it is duly proved that the premises in question were let out on rent to the respondent by the petitioner. The petitioner has proved to be the landlord as defined under the Act. It is thus prayed that this petition be allowed and both the impugned judgments be set aside.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

The petitioner preferred a petition under Section 13 of the Act while pleading that the respondent took the demised premises on rent from the petitioner on monthly rent of Rs.1,600/- on 4th February 2007. Ejectment of the respondent was sought on the ground of non-payment of rent from 05.02.2008 to 05.02.2009.

Petition was resisted by the respondent claiming that relationship of landlord and tenant between the parties did not exist. Father of the respondent was stated to be the owner of the premises in question. Respondent stated that he was living on the said property since the last 40 – 50 years and no question arose for taking the property on rent from the petitioner. Respondent stated that a loan of Rs.50,000/- had been taken from

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the petitioner and some fraudulent documents had been prepared by the petitioner on which reliance was being placed.

It is noticed that the petitioner has based his entire claim on an affidavit Ex.PW3/A purportedly executed by the respondent transferring the shop in question, in favour of the petitioner. However, it is a matter of record that the demised premises belongs to the respondent's father, who is admittedly the owner thereof.

Petitioner while deposing as PW-1 has admitted the factum of the respondent's father being the owner of the property on a lease hold basis. Therefore, it has been rightly held by both the learned Courts below that no reliance can be placed on affidavit Ex.PW3/A purportedly executed by the respondent in the petitioner's favour. It is not understandable as to how the respondent could have transferred any rights in the property to the petitioner on the basis of an affidavit Ex.PW3/A and that too in respect of property which admittedly does not belong to the respondent. Equally irrelevant and unreliable is the purported rent agreement Ex.PX. There is no evidence on record to prove the handing over the possession of the demised premises to the petitioner in pursuance of the affidavit Ex. PW3/A and then letting out of the premises to the respondent.

It is not in dispute that in the proceedings under the Act, the petitioner is liable to prove the relationship of landlord and tenant. Landlord is defined in Section 2(c) of the Act, which reads as under:-

"landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a

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trustee, guardian; receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter provided, and every person from time to time deriving title under a landlord;

Doubtlessly, the landlord need not be the owner of the demised property but in the instant case, the petitioner has clearly failed to prove himself to be the landlord and neither the relationship of landlord and tenant has been proved.

Learned counsel for the petitioner is unable to point out any illegality, perversity or infirmity in the impugned judgment dated 28.07.2015 passed by learned Rent Controller, Sonipat and judgment dated 04.07.2018 passed by learned Appellate Authority, Sonipat, which calls for interference by this Court in exercise of its revisional jurisdiction.

No other argument has been raised.

Keeping in view the facts and circumstances as above, I do not find any ground to interfere in the impugned judgments dated 28.07.2015 and 04.07.2018 passed by the learned Rent Controller, Sonipat and the learned Appellate Authority, Sonipat, respectively, in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to costs.

February 06, 2019.

Sunil

**(LISA GILL)
JUDGE**

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