

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.952 of 2016(O&M)
Date of Decision: 21.05.2019.

Om Parkash and others

.....Petitioners

Versus

Gopal Krishan Dhami through LRs.

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Prabhjayot Singh Chahal, Advocate
for Mr. G.S.Nagra, Advocate
for the petitioners.

LISA GILL, J(Oral).

Petitioners-tenants, being aggrieved of order dated 23.07.2013, passed by the learned Rent Controller, Amritsar, as well as order dated 03.12.2015, passed by the learned Appellate Authority, Amritsar, have filed the present revision petition.

Respondent-landlord-Gopal Krishan Dhami, (represented through his legal representatives) filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act (for short Act) seeking ejectment of the present petitioners from the demised premises i.e. a shop as detailed in the petition on the following grounds:-

- (i) non-payment of rent,
- (ii) the premises being unsafe and unfit for human habitation,
- (iii) present petitioners have ceased to occupy the premises for a continuous period of more than four months immediately preceeding the filing of the ejectment petition.

It is pleaded by the respondent-landlord that Nirmala Kumari, wife of Bhagat Ram took the shop in question on rent from Gopal Krishan Dhami at a monthly rent of ₹125/-. Nirmala Kumari, passed away. The present petitioners i.e., Om Parkash, Vinod Kumar and respondents no.2 to 4 are the legal representatives of Nirmala Kumari. There, thus, existed the relationship of landlord and tenant. It is pleaded that the premises were unfit

and unsafe for human habitation as the shop, which is a single storey building was constructed more than 100 years ago. Subsequent to the earlier petition for ejectment filed by the landlord, which was dismissed in default, roof of the building started falling. Building was stated to be in dilapidated condition. Furthermore, apart from non-payment of rent, it is pleaded that the respondent ceased to occupy the demised premises. Electricity connection stood disconnected since the last many years. Ejectment of the tenants was thus sought.

The present petitioners while admitting the relationship of landlord and tenants denied that any ground for ejectment was available to the landlord.

Learned Rent Controller, Amritsar, on considering the evidence on record held that the ground for non-payment of rent, did not subsist, but ordered ejectment of the petitioners from the demised premises on the ground of building being unsafe and unfit for human habitation, besides the tenants having ceased to occupy the shop in question.

Appeal preferred by the present petitioners was dismissed by the learned Appellate Authority, Amritsar, vide impugned order dated 03.12.2015.

Aggrieved therefrom, present revision petition has been filed by the present petitioners.

Learned counsel for the petitioners argues that the evidence on record does not prove that the building is unfit or unsafe for human habitation. Learned Courts below have wrongly relied upon the statements of AW-3-Buta Singh Mann, Civil Engineer and AW-4-Imtiaz Kha, Photographer. Report, Ex.A-1 and A-2, it is submitted are not as per the factual position. Moreover, landlords could not prove that the petitioners had

ceased to occupy the premises in question. It is thus prayed that this petition be allowed and both the orders passed by the learned Courts below be set aside.

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

There is no dispute regarding the relationship of landlord and tenants between the parties. Ejectment of the petitioners has been directed on the ground of the building being unfit and unsafe for human habitation and the tenants having ceased to occupy the building in question for more than four months prior to the filing of the petition. Ex.A-1, is the report submitted by AW-3-Buta Singh Mann, Civil Engineer, in respect to the premises in question after having inspected the same on 04.12.1997. Site plan, Ex.A-2, is also on record. It is evident from the evidence on record that a major part of the roof has fallen down. The debris (Malba) was lying in the shop as per the said report Ex.A-1. It is the specific and categoric pleading of the landlord that the wooden batons used for the building have fallen. The wood work of the said building has completely decayed. The walls are out of plumb and have developed cracks. The floor of the shop is broken at several places and has sunk down. Said pleading are fortified by the report, Ex.A-1, duly proved by AW-3, besides the photographs Ex.A-3 to A-17, duly proved by AW-4-Imtiaz Khan, Photographer. It is specifically observed by the learned Appellate Authority, Amritsar, that the demised premises are lying abandoned as major part of the roof of the shop has fallen down and the remaining structure is also in a dilapidated condition. Learned counsel for the petitioners is unable to point out any ground or reason to discredit or falsify the said report, site plan or photographs.

It is relevant to note at this stage that RW-1-Om Parkash i.e.

petitioner no.1 in his cross-examination has admitted that there is no electricity connection in the shop though he sought to explain that he does not require an electricity connection. In the given facts and circumstances of the case, the petitioners have indeed failed to rebut the specific, categorical and positive evidence led by the respondents-landlords to prove the dilapidated condition of the building or of the petitioners having ceased to occupy the shop in question.

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 while exercising revisional jurisdiction would normally not interfere in concurrent finding of fact until and unless it is shown that there is gross misreading of evidence or ignoring of material evidence on record which renders the finding of the courts below to be perverse. In my considered opinion both the learned Courts below have rendered well reasoned and logical decisions on a sound appreciation of evidence on record which brook no interference.

No other argument has been raised.

Learned counsel for the petitioners is unable to point out any illegality, infirmity or perversity in the impugned order dated 23.07.2013, passed by the learned Rent Controller, Amritsar, as well as order dated 03.12.2015, passed by the learned Appellate Authority, Amritsar, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to cost.

21.05.2019
s.khan

[LISA GILL]
Judge

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