

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR NO.2819-2019 (O&M)
DATE OF DECISION:-19.07.2019

BALJIT SINGH ARSHI

...PETITIONER...

V.

BODH RAJ KAPAHI

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. B.D. Sharma, Advocate,
for the petitioner.

Mr. Anupam Bhardwaj, Advocate,
for the respondent.

RAMENDRA JAIN, J. (ORAL)

CM-11499-CII-2019

Prayer in this application is for placing on record statements of AW1 Bodh Raj Kapahi and RW1 Baljit Singh Arshi (Annexures A-1 and A-2) in compliance of order dated 06.05.2019.

Allowed as prayed for. Documents (Annexures A-1 and A-2) are taken on record, subject to all just exceptions. Be tagged at appropriate place.

CM stands disposed of.

Main case

The petitioner-tenant through this revision has laid challenge to the judgment of the appellate authority dated 28.01.2019, affirming

the finding of the rent controller dated 12.12.2017, thereby ordering eviction of the revisionist, in application under Section 13 of the East Punjab Urban Rent Restriction Act No.III of 1949 (for short, "Act") filed by the respondent-landlord, and to hand-over the vacant possession of the demised shop to the respondent-landlord, within two months.

Briefly, respondent-landlord, claiming himself to be owner of the demised shop, being its purchaser from previous owner namely, Sucha Singh, vide registered sale deed dated 14.06.2011, filed eviction petition under Section 13 of the Act against the revisionist, inducted as tenant on monthly rent of ₹1350/- on the ground of arrears of rent and bona fide requirement.

Upon notice, the petitioner-tenant denying their relations as of tenant and landlord and raising various other pleas, contested the eviction petition.

The rent controller, after holding full fledged trial, accepted the eviction petition vide order dated 12.12.2017.

Being aggrieved, petitioner-tenant approached the appellate authority, but remained unsuccessful, as his appeal, too was dismissed vide order dated 28.01.2019.

Learned counsel for the petitioner-tenant contends that both the courts below have failed to appreciate that respondent in his cross-examination had specifically admitted that according to sale deed

Ex.A-2, vide which, he had purchased the property, was situated at

Faizpura, whereas, the demised shop was situated in the area of Karampura. Respondent-landlord also admitted that the area of Faizpura and Karampura was distinct to each other. Therefore, he could not prove the ownership over the demised shop. Both the courts below further failed to appreciate that respondent-landlord had various properties, where he could sufficiently run his Ayurvedic Hospital/medicine shop. Therefore, the eviction of the petitioner on the ground of bona fide requirement of the respondent-landlord was not proved beyond shadow of doubt.

On the other hand, learned counsel for the respondent-landlord refuting the above submissions contends that the sale deed executed by previous owner namely, Sucha Singh, in favour of the respondent-landlord is not denied by the revisionist-tenant. His admission to the said fact, estops him denying his relationship with the respondent as that of tenant and landlord.

Having given thoughtful consideration to the submissions made by learned counsel for the parties, this Court finds the instant petition completely devoid of any merit for the reasons to follow:-

This Court, while exercising its revisional jurisdiction, has very limited power, which can only be exercised in following three infirmities committed by the lower courts below:-

- (i) if the courts below have exceeded their jurisdiction;
- (ii) have exercised their jurisdiction illegally and;
- (iii) have not exercised their jurisdiction diligently.

Learned counsel for the petitioner has not been able to point out any such infirmity.

2. The petitioner though disputed the identity of the property urging that the demised shop was situated in Karampura, whereas the property purchased by respondent-landlord from Sucha Singh, vide sale deed Ex.A-2, was situated in the area Faizpura, which was altogether at a distinct location, but he did not lead any evidence in support of his aforesaid contention. Therefore, an adverse inference is required to be drawn against the petitioner-tenant that he raised the said plea, noticing some clerical mistake in the description of sale deed Ex.A-2. There was no iota of evidence before the lower court from the side of the petitioner that the demised shop was distinct to the area mentioned in sale deed Ex.A-2. Hence, this Court is not inclined to differ with the concurrent findings of both the courts below, being based on evidence led by both the sides. Contrary to it, respondent-landlord successfully proved on the record that the sale deed in his favour executed and registered by Sucha Singh pertains to the demised shop only and not to some other property. Therefore, both the courts below finding no other option have rightly accepted the eviction petition, on the ground of personal bona fide requirement of respondent.

I have gone through the judgments of both the courts below and find no infirmity in the same. Hence, the instant petition is dismissed.

Since, the time awarded to the petitioner for eviction of shop by the lower court has expired, therefore, he is directed to vacate the demised shop within 15 days from today, failing which, he is held liable to pay mesne profit @ ₹50,000/- per month from the date of order of the appellate authority till actual delivery of possession.

19.07.2019

sonika

(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No