

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

CR No.6082 of 2019 (O&M)

Date of Decision: September 25, 2019

Sewa Ram

.... Petitioner

Versus

Ashish Gupta & Anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rakesh Gupta, Advocate for the Petitioner.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Judgment dated 17.09.2019 passed by the Ld. Appellate Authority, Patiala in Rent Appeal No.02 of 2017 affirming the Order of the Rent Controller, vide which the Eviction Petition filed by the Respondents/Landlords under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 had been allowed.

2. The Eviction Petition was filed by the Respondents seeking eviction of the Petitioner from the demised premises as described in the Heading of the original Eviction Petition on the grounds that he had defaulted in payment of rent and also on account of personal necessity of the Landlords, who claimed to have acquired its ownership by way of a registered Sale Deed dated 2.1.2008 executed in their favour by one Tara Devi, widow of the original Owner Faqir Chand. The Eviction Petition was contested by the Petitioner on the ground that he was not a Landlord under the Respondents and that the Sale Deed relied upon by them was forged and fabricated.

3. It transpires that after appearing in the Court of Ld. Rent Controller, the Petitioner paid the accumulated arrears of rent etc. ostensibly in compliance of Provisional Order of Assessment, but his case even before this Court has been that there is actually no Landlord-Tenant relationship between himself and the Respondents, since the Sale Deed in their favour is forged and fabricated document, and that dispute regarding ownership of the Respondents is already pending by way of a Civil Suit filed by him seeking declaration to the effect that the impugned Sale Deed is illegal, null & void and not binding upon him. A copy of Plaint filed by the Petitioner in the Court of Ld. Civil Judge (Senior Division) Patiala on 7.1.2015 is on record as **Annexure P-6**.

4. The Eviction Order against the Petitioner was passed by both the Ld. Courts below, who after examining the Sale Deed in question, were of the opinion that it appeared to be a valid registered document and also pertained specifically to the premises in question.

5. It has been argued on behalf of Petitioner that the Court of Ld. Rent Controller is not competent to decide the question of ownership of demised premises when a dispute to that effect is raised. In support of this contention, attention of the Court has been drawn to the earlier decisions of this Court in '**Smt. Jawali and ors. Vs. Des Raj and ors.**' 1989(1) R.C.R. (Rent) 264; '**Balwant Singh Vs. Harbhajan Singh**' 1985(1) R.C.R. (Rent) 613; '**Prithi Raj Vs. Hans Raj**' 1969 PLR 177.

6. After going through the aforesaid Citations, this Court finds that those are not helpful to the Petitioner. This is so because in **Smt.**

Jawali and ors.' case (supra), the denial of Landlord-Tenant relationship at the instance of the Tenant in that case, who had claimed to have been inducted by one Joginder Singh, and who according to him, was also owner of the premises, was supported by the said Landlord, himself, as RW1.

7. In **Balwant Singh (Supra) and Prithi Raj (Supra)**, the dispute about existence of Landlord-Tenant relationship had arisen in view of the fact that the Tenant in each case had altogether denied his status as a Tenant and merely asserted himself to be an Owner by way of Adverse Possession on account of which, the question of his being a Tenant under any person claiming himself to be his Landlord was redundant.

8. But in the present case, the Petitioner does not deny his original status as Tenant under the deceased Faqir Chand and thereafter his widow Tara Devi (also deceased). So his status as Tenant is certainly not in dispute. In such circumstances, where the document by way of registered Sale Deed on being scrutinized by both the Courts below has been found to be genuine and in order, it is not for the Tenant to raise any dispute regarding ownership of the premises on the strength of such document. It would of course have been another matter if any challenge against the same was raised at the instance of any natural Legal Heirs of the deceased Landlord/Landlady. But that is not so here and the Civil Suit filed by the Petitioner himself three years after filing of the Eviction Petition against him, which is still reported to be pending, can surely not help him to deny existence of Landlord-Tenant relationship, which the Rent Controller's Court or the

Appellate Authority under the East Punjab Urban Rent Restriction Act is well within its right to examine. It is also significant to note that even though the admitted Landlady Tara Devi died shortly after execution of the alleged Sale Deed in favour of the Respondents in the year 2008, the Petitioner in his Eviction Application had studiously avoided mentioning who is his Landlord after her demise, or to whom he had paid or offered to pay any rent for all the succeeding years prior to filing of the Eviction Petition against him.

9. The Petitioner has also cited Judgment of this Court in '**Ram Lubhaya Vs. Bagha Mal' 1980(2) RentLR 380**, wherein it was held that issue pertaining to Title of the premises in question should be agitated in the Civil Court. But here also, the facts are distinguishable as, in **Ram Lubhaya's case** it is seen that the basic dispute was on account of the conflicting claims of Madan Lal, the eldest son of Bagha Mal and his two other brothers namely, Balram Kumar and Satish Kumar, under whom, Petitioner Ram Lubhaya had claimed to be a Tenant. In the circumstances, the dispute was essentially between the own Successors of the original Owner, who had staked their rival claims to ownership of the premises left behind by him, and it was in this situation that the Tenant had denied his relationship with the alleged Landlord by specifically contending that he was a Tenant under the other sons of Madan Lal, and not under the Respondent Bagha Mal, who was actually the elder brother of Madan Lal. But there is no controversy regarding ownership between any of the Legal Heirs of the admitted Landlord/Landlady in the present case, on account of which, this Citation also not helpful to the

Petitioner.

10. Another reliance of the Petitioner is on the decision in '**Om Parkash Vs. Smt. Shanti Devi**' 2004(1) RentLR 175 in which, liberty was granted to the Petitioner in the said case to file a Civil Suit in accordance with law subject to the rights of the Respondents. However, it was also noted in Para 3 of the short Judgment "*Mr. S.C.Kapoor, learned Senior counsel appearing for the respondent submits that the question of title can only be determined by the civil Court but findings recorded by the Rent controller with regard to relationship of landlady-tenant inter se between the parties, obviously have attained finality.*" (Emphasis added)

11. To that extent also, it is seen that the findings of Rent Controller with regard to relationship of Landlord-Tenant *inter se* between the parties were considered to have attained finality notwithstanding any dispute pertaining to the question whether the original Lease/Licence in favour of the Respondents in the said case had ever been cancelled, or whether a fresh Lease was thereafter issued in favour of the Petitioner therein.

12. For the aforesaid reasons, this Court finds no ground to interfere with the concurrent findings of both the Ld. Courts below. Dismissed.

(SUDIP AHLUWALIA)
JUDGE

September 25, 2019
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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |