

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5365 of 2018 (O&M)
Date of Order:05.03.2020

Surya Kant

..Petitioner

Versus

Arya Samaj Mandir and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Praween Gupta, Advocate,
for the petitioner.

Mr. Aditya Jain, Advocate
for the respondents.

ANIL KSHETARPAL, J (Oral)

By this order, two connected civil revision petitions shall stand disposed of. Civil Revision NO.5365 of 2018 has been filed by the petitioner-tenant against the order of eviction passed by the learned Rent Controller which has been affirmed in appeal by the learned Appellate Authority.

The respondent-landlord is a religious institution. It had authorized its member, by a resolution, to file the eviction petition. The eviction petition was filed on three different grounds:-

- (i) Non-payment of rent;
- (ii) Tenant has sub-let the premises;
- (iii) Bonafide requirement of the landlord as it wishes to open a public library for use of general public.

Learned Rent Controller on appreciation of the evidence found that the petitioner-tenant is liable to be evicted on two grounds i.e.;

- (i) bonafide requirement of the landlord
- (ii) the petitioner has sub-let the premises.

Learned Appellate Authority has upheld the order of eviction.

This court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the courts below.

Learned counsel appearing for the petitioner has submitted that since the respondent-religious institution is not a registered Society, therefore, the petition filed by it was not maintainable. In support of the aforesaid contention, learned counsel has relied upon the judgment passed by a Division Bench of the Kerala High Court in **Salafi v P.N.Nazir, 2014 (5) R.C.R.(Civil) 393.**

This court has carefully read the aforesaid judgment.

The dispute in the aforesaid judgment was with respect to who is 'Mutavli' of Wakf Salafi Trust. In the facts of the aforesaid case, the Division Bench of the Kerala High Court examined the maintainability in the context of representative suit as is provided under Order 1 Rule 8 of the Code of Civil Procedure. The Division Bench found that neither the necessary permission to file a representative suit has been obtained nor the notice as required has been given. In that context, the Division Bench decided the aforesaid case.

As noticed above, in the present petition which has been filed under the Haryana Urban(Control of Rent and Eviction) Act, 1973, the landlord has sought eviction of the tenant. Hence, the judgment passed by the Division Bench is not applicable to the facts of the present case.

Still further, the jurisdiction of the High Court while hearing revision petition against the concurrent orders passed by the learned Rent Controller as well the Appellate Authority is limited. Reference in this regard can be made to a Five Judges Bench of the Supreme Court in the case of **Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh, (2014) 9 SCC 78.** The Supreme court after examining the provisions of Section 15(6) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 went on to hold that scope of revision under the Rent Act is limited. Reference in this regard can be made to the conclusion drawn by the Supreme Court, which is extracted as under:-

45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to

satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.

In view of the aforesaid, there is no ground to interfere.

Hence, the revision petition is dismissed.

Now let's examine Civil Revision No.1167 of 2019 (Rakesh Kumar Garg vs. Arya Samaj Mandir).

The tenant-petitioner has filed the present revision petition against the order of eviction passed by the Appellate Authority.

The appellate authority held that the requirement of the landlord is bonafide. In the present case, the religious institution has pleaded that it wants to open a Charitable Neurotherapy Clinic for the benefit of general public. The landlord is already running a Charitable Ayurvedic Health Care Centre in the adjoining premises.

Learned counsel for the petitioner has submitted that the present revision petition filed under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 was not maintainable as the Society is not registered. This aspect has already been examined in detail.

In view of the aforesaid reasons, there is no substance in the present revision petition.

Accordingly, the present revision petition is also dismissed.

March 05, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No