

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

CR-7669-2015 (O&M)

Date of decision : 07.01.2020

Anup Trehan

...Petitioner

Versus

Devi Sahai S.D. Senior Secondary School, Jalandhar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manuj Nagrath, Advocate for the petitioner.

Mr. H.K. Aurora, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Tenant-petitioner has filed the present revision petition against the order of eviction passed by the learned Rent Controller, affirmed in appeal by the Appellate Authority.

Respondent-landlord-Senior Secondary School, has filed the present eviction proceedings claiming eviction on the ground that the tenant has failed to pay the rent from 10.06.2002 to 10.11.2005. In the first written statement filed by the tenant, the petitioner in para 3 of the preliminary objections stated that there is no relationship of landlord and tenant between the petitioner and the respondent. However, in para 2 on merits, it was stated as under:-

“2. That para No.2 of the petition is wrong and denied. As soon as the respondent came to know that the petitioner was not the lawful owner/landlord of the property in dispute, he stopped paying the rent. The petitioner has no locus standi to file the present petition nor any cause of action has arisen in favour of the petitioner to file the present petition which is false and vexatious and abuse of the process of the Court. The petition is liable to be dismissed.”

Subsequently, written statement was permitted to be amended and the petitioner-tenant in toto denied the relationship of landlord and tenant.

On appreciation of evidence, both the Courts have found that there is a relationship of landlord and tenant between the parties particularly when the cheque representing the amount of rent was handed over by the petitioner to the respondent-landlord which on presentation was dishonoured. Thus, both the Courts have held that the petitioner is liable to be evicted from the tenanted premises.

Learned counsel appearing on behalf of the petitioner has submitted that the Courts below have erred in taking into consideration the previous written statement filed by the tenant particularly when the application for amendment was allowed and the petitioner was permitted to file amended written statement. Hence, he submitted that the judgments passed by the Courts below are erroneous.

On the other hand, learned counsel for the respondent submitted that the finding by the Courts is not only on the basis of para 2

of the unamended written statement but also on the basis of the evidence which has been produced on the file including the cheque in question. Hence, he submitted that the revision is liable to be dismissed.

This Court has considered the submissions of the learned counsel for the parties and with their able assistance gone through the judgments passed by the learned Rent Controller, affirmed in appeal, as also record of the Courts below, requisitioned by this Court.

This Court is of the considered view that there is no substance in the argument of learned counsel for the petitioner to the effect that the previous written statement cannot be seen by the Court once the amended written statement has been permitted to be filed. The unamended pleadings are very much part of the Court file. The previous written statement filed does not get wiped of the record after amendment has been allowed. The amendment of the pleadings does not ipso facto result in unamended pleadings having gone off the record. Still further, as rightly contended by the learned counsel for the respondent, the Courts have not only relied upon the unamended pleadings but have also considered the other evidence which have been brought on file including the cheque issued by the tenant-petitioner in favour of the respondent-landlord which, of course when presented for encashment was dishonoured. The plea of tenant that the aforesaid cheque was towards donation has been rightly rejected by the Court and it has been held that the aforesaid amount was towards the payment of rent.

While exercising the revisional jurisdiction, the Court is

required to examine legality and propriety of the judgment passed. In exercise of revisional jurisdiction, the Court cannot be expected to rehear the revision petition like appeal. Reference in this regard can be made to the judgment passed by the Constitution Bench in the case of **Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh, (2014) 9 SCC 78.**

In view thereof, there is no ground to interfere.

Accordingly, the present revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

07.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No