

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 7774 of 2018 (O&M)

Rajwinder Singh Mann

... Petitioner(s)

Versus

Nirmal Singh

... Respondent(s)

AND

2. Civil Revision No. 7855 of 2018 (O&M)

Tejwinder Singh Mann

... Petitioner(s)

Versus

Nirmal Singh

... Respondent(s)

DATE OF DECISION: 20.04.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner(s).

Mr. Ishpuneet Singh, Advocate
for the respondent.

Anil Kshetarpal, J.

By this order, Civil Revision No. 7774 and 7855 of 2018 shall stand disposed of. The learned counsels representing the parties in both the revision petitions are common and they are *ad idem* that an identical issue arises for consideration and therefore, both the revision petitions can be disposed by a common order.

2. In both the revision petitions, each of the petitioners is tenant of separate portions on the ground floor of House No. 603, Phase 3-A, S.A.S. Nagar, Mohali. The respondent-landlord filed a petition under

Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”), which provides for immediate delivery of the possession of the tenanted premises.

3. Section 13-B of the 1949 Act states that the tenant is required to file an application for leave to defend, which were filed in the present cases, but the same were dismissed by the learned Rent Controller and that is how these two revision petitions have been filed.

4. This Court has heard learned counsel for the parties and with their able assistance, perused the paper-book of both the revision petitions.

5. Learned counsel for the petitioners, firstly, contends that an application for additional evidence has been filed by the petitioners which would clearly prove that the landlord has concealed some material facts from the Court. He, while drawing attention of the Court to the documents sought to be produced by way of additional evidence, submits that the landlord did not disclose that on the first floor of House No. 603, Kasturi Lal and his family used to reside and they, later on, vacated the same. He, hence, submits that the application for leave to defend is required to be granted. He further submits that the tenancy is in favour of a company-Blue Becon Electronic Security Systems Private Limited, but the same has not been impleaded as a party. Hence, the petition is not maintainable.

6. Per contra, learned counsel, representing the landlord, contends that there is no reference to Kasturi Lal being the tenant on the first floor of the premises in the application for leave to defend and therefore, the application for additional evidence is liable to be dismissed. He submits that

time in the revision petition. He further contends that in any case, the landlord cannot be forced to reside on the first floor, particularly when there is no material to prove that the accommodation on the first floor is sufficient. He further submits that the landlord has produced the rent deed dated 28.01.2017, which clearly proves that the tenancy was not with the company but with the individuals i.e. two brothers, the petitioners herein, who have been separately ordered to be ejected.

7. Having heard learned counsel for the parties at length, this Bench is of the considered view that there is no substance in both the revision petitions.

8. On careful perusal of the application for leave to defend, it is apparent that the previous tenancy on the first floor was never pleaded in the application for leave to defend. Still further, in the absence of any material that the aforesaid accommodation on the 1st floor is sufficient, the leave to defend cannot be granted. Still further, the landlord cannot be forced to live on the first floor of his own premises.

9. The second argument of learned counsel is also without any substance because the tenants have not produced any material to show that the premises was let out to Blue Beacon Electronic Security Systems Private Limited. Rather the landlord has produced the rent deed dated 28.01.2017 to prove that separate portions were let out to the petitioners herein, who are two brothers. Hence, even if the rent has been paid for some time from the account of the company, it would not result in a tenancy in favour of the company, particularly when two brothers, the petitioners herein, are the directors in the said company.

10. Still further, in a revision, the scope of interference is limited and in the absence of any perversity or any substantial or material illegality, the Court is not expected to interfere. Reliance in this regard can be placed upon the five Judge Bench of the Hon'ble Supreme Court in *Hindustan Petroleum Corporation Limited v. Dilbahar Singh (2014)9 SCC 78*.

11. In view of the above, the petitioners have failed to make out any ground for interference. Hence, both the petitions are dismissed. However, the petitioners, in both the petitions, are granted three months' time to hand over the vacant possession of the tenanted premises to the landlord.

12. The miscellaneous application(s) pending in both the revision petitions, if any, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

April 20, 2021
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No