

CR-716-2021 (O&M)

Through Video Conference

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

**CR-716-2021 (O&M).
Decided on: April 20, 2021.**

Reeta Sharma

.. Petitioner

VERSUS

Guddi

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Lajpat Sharma, Advocate,
for the petitioner.**

JASGURPREET SINGH PURI, J.

The present revision petition has been filed challenging the order dated 16.1.2020 (Annexure P-9) passed by the learned Appellate Authority under the Rent Act/Additional District Judge, Panipat, whereby the appeal filed by the respondent was accepted and the order dated 2.8.2017 passed by the learned Rent Controller was set aside.

The brief facts of the present case are that respondent namely Guddi had filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction), Act 1973 (for short hereinafter to be

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referred as 'the Haryana Rent Act') seeking eviction of the petitioner vide Annexure P3 on various grounds. In the said eviction petition, the present petitioner namely Reeta Sharma filed an application under Order 7 Rule 11 CPC read with Section 151 CPC for rejection of the petition. One of the main grounds taken in the aforesaid application was that the disputed property is situated outside the Municipal Limits of Panipat and therefore, the eviction petition under the Haryana Rent Act was not maintainable because the said Act applies only to urban area. Various other grounds were also taken in the said application to the effect that ownership of the property in question was under challenge and therefore, the relationship of landlord and tenant was disputed. One of the basic reason given by the petitioner in the application was that the property which is a house was transferred by way of a sale deed dated 4.1.2010 in which it has been stated that the property was situated outside the Municipal Limits District Panipat and therefore, the Haryana Rent Act was not applicable in the present case.

The said application under Order 7 Rule 11 CPC, was allowed by the learned Rent Controller vide Annexure P-7 on 2.8.2017 by observing that a perusal of the sale deed dated 4.1.2010 would show that the disputed property is situated outside the limits of Municipal Corporation, Tehsil and District Panipat and similarly, a perusal of the Rent Agreement dated 4.1.2010 would also show that property is situated at Makhdoomjadgan, District Panipat, which is outside the limits of Municipal Corporation, Panipat and that since the aforesaid Act is applicable only to the urban areas, the eviction petition is liable to be

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rejected. So far as the dispute raised pertaining to landlord and tenant relationship is concerned, it was observed that the same cannot be decided as of now. Thereafter, the respondent Guddi assailed the aforesaid order passed by the learned Rent Controller before the learned Appellate Authority.

The learned Appellate Authority took note of various other factual factors and allowed the appeal by setting aside the order dated 2.8.2017. It was noted by the learned Appellate Authority that the learned Rent Controller had overlooked the fact that the property in question had later on come under the territorial jurisdiction of Municipal Corporation, Panipat and had been assessed for the payment of property tax. The reliance was placed on Notification dated 17.3.2010 when the land comprised in the revenue boundaries of Patti Makhdoom Jadga, where the property is situated was incorporated in the municipal limits and the area has been now subjected to property tax vide Notification dated 11.10.2013. The learned Appellate Authority framed a point of determination as follows:-

“Whether jurisdiction of the Rent Controller has to be determined on the date of filing of the eviction petition or with reference to the date of rent agreement?”

Reference was made to Sections 1 and 2 of the Haryana Rent Act as well as statements of objects and reasons of the Act. Section 2 (i) of the Act defines “urban area” as “urban area” means any area administered by Municipal Committee, Notified Area Committee, Faridabad

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Complex Administration or any area declared by the State Government by notification to be an urban area for the purpose of this Act.

The learned Appellate Authority observed that a collective perusal of these provisions clearly reveals that in case an area has fallen into the municipal limits, it is to be reckoned as “urban area”. No doubt, the property in question was not a part of the municipal area as on the date when respondent Guddi had allegedly purchased or allegedly rented out the property to the respondent but it was the date when the eviction petition was filed on 9.9.2014 by which date the said area has come into the local limits of Municipal Corporation, Panipat by virtue of Notification dated 17.3.2010 and that the learned Advocate for Mrs.Reeta Sharma could not dispute the fact that the property in question had come in the limits of Municipal Corporation vide above notification but had only submitted that the subsequent incorporation of the area in the municipal limits would not confer jurisdiction upon the Rent Controller. The learned Appellate Authority further observed that the learned Rent Controller got swayed away by the fact that the property in question was not in the limits of Municipal Corporation, Panipat as on the date of alleged agreement dated 4.1.2010 and fell into error in holding that he did not have the jurisdiction to try the eviction petition. The learned Appellate Authority further observed that jurisdiction to try the eviction petition has to be reckoned in reference to the date of filing of the eviction petition and not from the date of rent agreement and if the Court were to hold otherwise, it would defeat the very object of the Haryana Rent Act which seeks to regulate the determination of

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rents and evictions qua all the properties situated in the urban areas. Consequently, the learned Appellate Authority allowed the appeal and set aside the orders passed by the learned Rent Controller.

Learned counsel for the petitioner has submitted that the rent deed was executed on 04.01.2010 and the place where demised property is situated was brought into the municipal limits vide notification dated 17.3.2010 and therefore, the provisions of the Haryana Rent Act, would not apply in the present case and the learned Rent Controller has rightly allowed the application under Order 7 Rule 11 CPC whereas the learned Appellate Authority has erroneously allowed the appeal and therefore, the present revision petition has been filed.

I have heard the learned counsel for the petitioner at length.

Petitioner is allegedly a tenant of the respondent. The demised property was allegedly transferred in the name of the respondent by way of sale deed dated 4.1.2010 and on the same day i.e. on 4.1.2010 rent agreement was also allegedly executed wherein the petitioner has been shown to be the tenant. The demised property is situated at Patti Makhdoom Jadga, District Panipat. Both the instruments have been allegedly executed on 4.1.2010 vide Annexures P-1 and P-2 respectively. In both the instruments, it has been mentioned that the property is situated outside the limits of Municipal Committee, Panipat. However, the place where the demised property is situated had come under the purview of Municipal Corporation, Panipat, vide Notification dated 17.3.2010 which has been

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noted in the order of the learned Appellate Authority and furthermore in the order it has been observed that counsel for the petitioner Mrs.Reeta Sharma could not dispute the fact that the property has come in the Municipal Limits vide aforesaid notification. However, it is the case of the petitioner that since it has been specifically incorporated in the sale deed as well as in the rent deed that the property is situated outside the municipal limits, the provisions of the Haryana Rent Act, would not be applicable in the present case. This Court is of the considered view that mere mentioning by any of the parties in the sale deed or in the rent deed that the property is situated outside the municipal limits would not change the effect of legal provisions applicable upon the parties and that there should be no estoppel against the law. The learned Appellate Authority has rightly observed that the jurisdiction to try the eviction petition should be reckoned in reference to the date of filing of the eviction petition and not from the date of rent agreement otherwise it would defeat the very object of the provisions of the Haryana Rent Act. Admittedly, the present eviction petition was filed in the year 2014 and the property was brought within the limits of Municipal Corporation, Panipat vide notification dated 17.3.2010 which was prior to the filing of the present eviction petition. The argument raised by the learned counsel for the petitioner that it is the date of rent agreement which would be relevant for determining the application of the Haryana Rent Act, is not only hypothetical but is also against the law. Therefore, this Court does not find any illegality or perversity in the impugned order passed by the learned Appellate Authority vide Annexure P-9. No ground is made out

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for interference in the present revision petition. Consequently, the same is hereby dismissed.

There shall be no order as to costs.

April 20, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No