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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3420-2021 (O&M)

Date of decision : 23.12. 2021

Sanjay Kumar

.....Petitioner

Versus

Chanda Ahuja

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ashok Paul Batra, Advocate for the petitioner.

ALKA SARIN, J.

Taken up in virtual mode.

The present revision petition under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the 'Punjab Rent Act') read with Order 41 Rule 5 of the Code of Civil Procedure, 1908 (CPC) has been filed by the petitioner-tenant impugning the orders dated 30.09.2019 and 05.10.2021 passed by the Rent Controller, Abohar and the Appellate Authority, Fazilka, respectively, whereby his ejectment from the premises in dispute has been ordered.

The brief facts relevant to the present *lis* are that in October 2016, the respondent-landlady filed an ejectment petition under Section 13 of the Punjab Rent Act for eviction of the petitioner-tenant from the premises in dispute which is comprised of two rooms and one kitchen etc. situated on the first floor of Shop No.80 New Grain Market, Abohar, Tehsil Abohar. As per the respondent-landlady, the petitioner-tenant had taken the

premises in dispute on rent on 13.04.2013 @ ₹2500/- per month. The eviction of the petitioner-tenant was sought on the ground that he was in arrears of rent to the tune of ₹82,500/- as he had failed to pay the rent from 14.01.2014 to 13.10.2016 @ ₹2500/- per month. The petitioner-tenant contested the ejectment petition and filed a reply denying the relationship of landlord-tenant between the parties and took a plea that he was working as a servant with Sh. Shashi Kant Ahuja, the husband of the respondent-landlady, for the last about 15 years and was residing in the premises in dispute in the said capacity. The execution of the rent deed was also denied. The petitioner-tenant further took a stand that he was being paid a salary of ₹7500/- per month and was also provided the premises in dispute to reside. According to the petitioner-tenant, he had not been paid the salary since November 2015 and was, therefore, entitled to recover the salary from the respondent-landlady. It was further averred that the ejectment petition itself was based upon forged and fabricated documents.

On the basis of the pleadings of the parties, the following issues were framed:

- 1. Whether there exists relationship of landlord and tenant between the parties? OPP*
- 2. If the first issue is proved in favour of petitioner, then whether petitioner is entitled to the arrear of rent from respondent as alleged? OPP.*
- 3. Whether the present petition is not maintainable in its present form? OPR*
- 4. Relief.*

The respondent-landlady examined her husband-cum-attorney Shashi Kant Ahuja as PW-1, Raj Kumar Draftsman as PW-2, Surinder Kumar son of Devi Lal, an attesting witness of the rent note, as PW-3, while in defence, the petitioner-tenant deposed as his own witness as RW-1. No other witness was examined by the petitioner-tenant.

The Rent Controller vide order dated 30.09.2019 allowed the ejectment petition filed by the respondent-landlady and ordered the petitioner-tenant to vacate the demised premises within a period of two months. Aggrieved by the said order, the petitioner-tenant approached the Appellate Authority. The appeal of the petitioner-tenant was also dismissed vide order dated 05.10.2021.

Aggrieved by the orders passed by the Authorities below, the petitioner-tenant has filed the present revision petition.

Learned counsel for the petitioner would contend that the respondent-landlady has failed to prove her case inasmuch as her husband had appeared as her attorney and the statement made by her husband as an attorney of the respondent-landlady could not be looked into. Learned counsel for the petitioner would further contend that a power attorney holder cannot depose for principal in respect of matters which the principal alone would have personal knowledge. To buttress his arguments, learned counsel for the petitioner-tenant has relied upon the following judgments:

1. Mohinder Kaur Vs. Sant Paul Singh [2019(4) RCR (Civil) 784];
2. JankiVashdeoBhojwani Vs. Indus Ind Bank Ltd. [2005(1) RCR (Civil) 240];
3. Man Kaur (Dead) by LRs Vs. Hartar Singh Sangha [2011(1)

RCR (Civil) 189].

The second argument raised by learned counsel for the petitioner is that the petitioner-tenant was an employee of Shashi Kant Ahuja, husband of the respondent-landlady, and he was never inducted as a tenant in the premises in dispute. The third limb of the argument raised by learned counsel for the petitioner-tenant is that the signatures on the rent note (Ex.P-1) are different from the signatures of the petitioner-tenant.

Heard.

In the present case the petition under Section 13 of the Punjab Rent Act was filed by the respondent-landlady only on the ground of arrears of rent. The petitioner-tenant has denied the relationship of landlord and tenant, taking a stand that he was an employee of the husband of the respondent-landlady and there exists no relationship of landlord and tenant. The petitioner-tenant denied his signatures on the rent note (Ex.P-1) and went to the extent of denying his signatures on the *vakalatnama* and the reply filed by him. In the order of the Appellate Authority it has been noticed that the petitioner-tenant in cross-examination admitted that the signatures on Ex.P-1 were his though they were taken on a printed form.

On a query put by the Court as to whether the signatures had been appended by the petitioner-tenant on the rent note (Ex.P-1), learned counsel for the petitioner-tenant contended that the petitioner-tenant had been impersonated.

Dealing with the arguments raised by the counsel for the petitioner-tenant that the deposition by the husband of the respondent-landlady could not be looked into, cannot be accepted. There is no quarrel with the proposition of law that a power attorney holder who does not have

personal knowledge of the facts cannot depose in respect of the matter qua which the principal alone would have personal knowledge and in respect of which the principal is to be cross-examined. In the present case, the power attorney holder of the respondent-landlady is her husband who has clearly stated in his oral evidence that the rent note (Ex.P-1) was prepared by him. In fact a perusal of rent note (Ex.P-1), which has been annexed with the present petition as Annexure P-2, would also reveal that the same was drafted by the husband of the respondent-landlady i.e. her power attorney holder. In the present case, it cannot thus be said that the power attorney holder did not have knowledge about the facts. It is further to note that the said argument was not raised by the petitioner before either of the authorities below and it is for the first time that the argument has been raised before this Court.

The second argument raised by learned counsel for the petitioner-tenant that the petitioner-tenant was an employee of the husband of the respondent-landlady also cannot be accepted inasmuch as the said averment is totally unsubstantiated. Not an iota of evidence has been led by the petitioner-tenant in order to show that he was an employee of the husband of the respondent-landlady. In fact the petitioner-tenant chose not to lead any evidence besides his own self-serving statement. The petitioner-tenant had alleged that he was being paid an amount of ₹7500/- per month as salary, however, except for his self-serving statement no evidence has been produced by the petitioner-tenant to substantiate the said averment.

The third argument raised by learned counsel for the petitioner that the signatures on the rent note (Ex.P-1) are not of the petitioner-tenant also cannot be accepted in view of the fact that besides a simpliciter denial,

no evidence was led by him by way of expert evidence in order to show that signatures on the rent note (Ex.P-1) did not belong to the petitioner-tenant. It has further come in the order passed by the Appellate Authority that the petitioner-tenant not only denied the signatures on the rent note (Ex.P-1) but also went to the extent of denying his own signatures on the *vakalatnama* dated 06.02.2017 signed by him in favour of his counsel as well as disowning his signatures on the reply dated 03.05.2017. No explanation whatsoever is forthcoming qua the said facts as noticed by the Appellate Authority except for an unsubstantiated argument of the counsel for the petitioner that the petitioner was impersonated.

In the cases of *“Hukma Devi Vs. BhagwanDass” [2003(1) RCR (Rent) 533]*, *“Jagdish Singh Vs. Mohan Lal” [2004(3)PLR 78]* and *“Yashpal Singla Vs. Vijay Kumar” [2004(3) PLR 504]*, it has been held that where the tenant disputes the relationship of landlord and tenant, there is no requirement of calculation of provisional rent.

In the present case, since the relationship of landlord and tenant itself was denied, which stand proved by way of evidence, there was no requirement for the Rent Controller to assess the rent and the petitioner-tenant would be liable for ejectment in view of the findings given by the authorities below that the relationship of landlord and tenant stood proved and that the petitioner-tenant was in arrears of rent.

In view of the above, I do not find any merit in the present revision petition which is dismissed.

(ALKA SARIN)
JUDGE

23.12.2021
Yogesh Sharma

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO