

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

CR-1553-2004 (O&M)

Date of decision: 04.05.2022

M/s Aggarwal Enterprises

...Petitioner

Versus

Dharam Pal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gorav Kathuria, Advocate for the petitioner
Mr. Shiv Kumar, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

After hearing learned counsel representing the parties, this

Court on 27.02.2020 passed the following order:-

“Present revision petition has been filed against the orders passed by the learned Rent Controller, affirmed in appeal by the appellate authority ordering eviction of the petitioner.

It is the case of the alleged landlord- Dharam Pal that he rented out the shop in question on 03.06.1992 to Vinod Kumar Kaushik respondent no.2 herein. Vinod Kumar Kaushik is alleged to have sub-let the premises to Parduman Singh, respondent no.3, whereas Parduman Singh has in turn sub-let the premises to petitioner M/s Aggarwal Enterprises. In the eviction petition, shop has been described as Shop No.7 with details of the surrounding properties in the following manner-

“East: The other property

West: Road to the hospital

North: Other property

South: Shop No.6 tenant Rajpal”

The shop is alleged to be situated on the hospital road Ballabgarh, Tehsil Ballabgarh, District Faridabad.

Learned counsel for the petitioner has submitted that there was litigation between the Parduman Singh and Dharam Pal with respect to khasra no.169 which was decided by the trial court against Parduman Singh. However, first appeal, second appeal and the Hon'ble Supreme Court decided in favour of Parduman Singh and Dharam Pal

was declared to be having no right, title or interest in the property comprised in khasra no.169, measuring 14 marlas. He further submitted that aforesaid Parduman Singh sold 14 marlas of land to Sia Ram and Suresh Chand vide sale deed dated 15.09.1995. Thereafter, Suresh Chand sold area measuring 137 square yards to Mukesh Chand, Mahesh Chand and Daudayal, vide sale deed dated 22.03.1995. Mukesh Chand is the sole proprietor of M/s Aggarwal enterprises. It is the case of the petitioner that the shop in question is located in Khasra no.169 which was the subject matter of litigation between Parduman Singh and Dharam Pal and it was held that Dharam Pal has no right, title or interest in the property.

Learned first appellate court has ignored this aspect while recording that in the sale deed, there is only reference to 4 rooms and not shop.

Keeping in view the controversy involved, it is considered appropriate to direct the Deputy Commissioner, Faridabad to depute Tehsildar, Ballabgarh along with Sadar Kanungo to demarcate the area and give report that whether the shop in question falls in land comprised in khasra no.169 or not? It is also expected that the revenue officials after examining the record would also report that whether Dharam Pal S/o Rewati Parshad respondent herein has any right, title or interest in the shop in question or not? The petitioner shall be entitled to produce a copy of this order before the Deputy Commissioner, Faridabad. The charges for demarcation shall be borne by the petitioner. The report be submitted before the next date of hearing.

List in urgent on 01.04.2020.”

A report from the Deputy Commissioner, Faridabad, has been received alongwith report of the demarcation. It has been found that Mahesh Chand alias Mukesh Chand, Dau Dayal (Mahesh Kumar and Vipin Kumar) sons of late Sh.Radhey Shyam are in joint possession of the land measuring about 130 sq. yards, in which the disputed shop exists. This shop is running with the trade name of Sh.Balaji Sanitary House. It has also been reported that the land comprised in khasra

no.169 in the revenue state of Village Balabgarh is recorded in the column of ownership in favour of the Municipal Corporation, Faridabad and in the column of possession, Sh. Praduman Singh is recorded as a shareholder. There is no entry in favour of Dharam Pal, the alleged landlord.

In the present case, the Rent Controller as well as the appellate authority has ordered eviction of the petitioner under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973. Sh. Dharam Pal claims that he leased out the property to respondent no.1 in the year 1992. It was claimed that respondent no.1 (Vinod Kumar Kaushik) has sublet the premises to respondent no.2 (Praduman Singh) during the pendency of the eviction petition. Subsequently, M/s Aggarwal Enterprises through its proprietor Mahesh Chand was impleaded as respondent no.3 claiming that Praduman Singh has sublet the premises in favour of the petitioner herein, on an application filed by Dharam Pal.

After having heard learned counsel representing the parties, this Court is of the considered view that the matter is required to be remitted back to the Rent Controller for deciding the matter afresh. There is no documentary evidence to prove that the petitioner was inducted as tenant by Praduman Singh. The previous suit filed by Praduman Singh has already been decreed.

Keeping in view the aforesaid facts, the orders under challenge are set aside. Let the Rent Controller re-decide the matter

while taking into account the report submitted by the Deputy Commissioner, Faridabad, as well as the entire evidence. The parties through their counsel are directed to appear before the Rent Controller on 25.05.2022.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

04.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE