

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8853 of 2017 (O&M)

Date of Decision: 10.08.2022

Onkar Singh

... Petitioner(s)

Versus

Tara Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjeev Kumar Bawa, Advocate
for the petitioner(s).

Mr. Hitesh Sood, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The petitioner is a tenant. He has been ordered to be evicted by the Rent Controller while allowing the ejectment petition dated 03.05.2013 filed under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”), which enables the Non-Resident Indian to pray for the recovery of immediate possession of the building if the owner fulfills all its requirements. After the grant of leave to defend, the petitioner was permitted to contest the eviction petition and ultimately the Court ordered his ejectment.

2. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

The learned counsel representing the petitioner contends that

the respondent-landlord has failed to prove that he is owner of the property in dispute. He submits that no document of title has been produced, which is *sine qua non* for filing the petition under Section 13-B of the 1949 Act.

4. It is evident that the property is situated within the original residential area. The landlord, in his evidence, produced the jamabandi for the year 2010-11 in which the petitioner is recorded as one of the co-owners. It has also come on the record that previously, the property in dispute was owned by the respondent's father, who died ten years before filing of the petition. His two children including the respondent herein inherited the property. Even in the municipal record, the respondent is depicted as an owner. In such circumstances, there is no substance in the first argument of the learned counsel representing the petitioner.

5. The learned counsel representing the petitioner further contends that the respondent has failed to assert that he is owner as well as the landlord of the shop in question for a period of more than five years from the date of filing of the petition. This argument is factually incorrect because the respondent, while filing the petition, has specifically asserted the aforesaid facts in para 3 of the petition, which is extracted as under:-

“3. That it is specifically submitted here that the petitioner inherited the said shop in question as well as property comprised in khasra No. 314/3 from his father after his death, in an oral family partition effected in between petitioner and his brother about ten years back, so the petitioner is the owner as well as landlord of the shop in question since more than five years from the date of filing of this present petition”.

6. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 10, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No