

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 686 of 2022 (O&M)

Date of Decision: 03.03.2022

Suresh Kumar

... Petitioner(s)

Versus

Devi Bala Sundri Mandir, Dera Ladwa

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Fateh Saini, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The petitioner herein is a tenant. In an eviction petition, filed under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter referred to as “the 1973 Act”), filed by the landlord, the petitioner has been ordered to be evicted by the Rent Controller vide order dated 25.07.2017, which was, later on, affirmed by the Appellate Authority.

2 Undoubtedly, the Appellate Authority has partially reversed the findings of the Rent Controller on the ground that the Mohitmim of the religious institution cannot get the tenant of the religious property evicted on the ground of bonafide requirement of his grandson. However, the Rent Controller and the Appellate Authority have, concurrently, found that the tenanted premises have become unfit and unsafe for human habitation and are required to be pulled down for reconstruction. The Rent Controller appointed the Sub Divisional Engineer (Civil) to inspect the building and

submit a report. The Provincial Sub Divisional Engineer, PWD (B&R),

Ladwa, submitted a report to the effect that there are some cracks on the backside and left side of the wall. It has further been reported that the condition of the floor of the shop is also in a dilapidated condition and the roof of the premises is made of second class mud roofing with wooden battens and some battens have suffered damage due to white ants and can collapse at any time. It was also reported that the structure seems to be very old and constructed with mud mortar, which is seldom seen now-a-days. The aforesaid Local Commissioner appeared in the witness box as PW.7 and proved his report. The learned counsel representing the tenant despite an opportunity to cross-examine, failed to impeach the credibility of his report. The tenant did not examine any expert to prove that the building is fit for human habitation.

3. Heard the learned counsel representing the petitioner, at length and with his able assistance, perused the paper-book as well as the photocopy of the record, which has been produced by the learned counsel.

4. The learned counsel, while relying upon the judgment passed by the Supreme Court in *Shadi Singh v. Rakha (1992) 3 SCC 55* contends that if no structural alteration is required and building can be repaired, then the order of eviction is not appropriate. He further relies upon the judgment passed in *Surinder v. Nand Lal (2018) 2 SCC 717*. This Court has carefully read the judgment passed by the Supreme Court in *Shadi Singh's case (supra)*. In the aforesaid case, on an application filed by the tenant under Section 12 of the East Punjab Urban Rent Restriction Act, 1949, the roof was permitted to be repaired. It was brought on the record that a part of the roof has been replaced at the cost of ₹ 200/- only. In such circumstances,

the Supreme Court held that if the building is repairable, then the order of eviction is not justifiable. In the present case, the Local Commissioner was examined as PW.7. On reading of his cross-examination, it is evident that he has not given any suggestion that the building is repairable. Furthermore, at the cost of repetition, the tenant has not examined any Expert to prove that the tenanted premises can be repaired without pulling it down. Further, in the present case, the Expert was deputed by the Court. He is assumed to be an independent Expert. After inspecting the building, he has given a report. Moreover, after submission of the report in the year 2016, six years have further elapsed. There is no evidence that the condition of the shop has improved. It is also not disputed by the learned counsel representing the petitioner that no application under Section 12 of the 1973 was filed before the Rent Controller for permission to carry out the repairs.

5. Keeping in the aforesaid facts, the judgment passed by the Supreme Court in *Shadi Singh's case (supra)* is not applicable. As regards the judgment passed in *Surinder's case (supra)*, it would be noticed that the Rent Controller as well as the Appellate Authority had dismissed the petition filed by the landlord after recording a finding that the tenanted premises is not in a dilapidated condition. The Supreme Court, after noticing that the High Court has limited jurisdiction while hearing the revision petition, observed that the High Court should not have interfered.

6. In the present case, the position is to the contrary. The Rent Controller as well as the Appellate Authority have, concurrently, recorded a finding that the building has become unfit and unsafe for human habitation.

A five Judges Bench of the Supreme Court in *Hindustan Petroleum*

that in a revisional jurisdiction, the High Court is not expected to interfere unless the Court comes to a conclusion that the judgments passed by the Courts are either perverse or there is misreading or non-reading of the evidence which goes to the root of the matter. In the present case, the learned counsel representing the petitioner has failed to draw the attention of the Court to such grounds.

7. In view of the above, no ground to interfere is made out. Consequently, the present revision petition is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 03, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No