

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

CR-1814-2020 (O&M)
Decided on : 31.08.2022

Ishwar Dass

..... Petitioner

Versus

Ashok Kumar and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.K.Tripathi, Advocate
 for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Petitioner-tenant is impugning the judgment dated 07.01.2020 passed by the learned Appellate Authority, Rewari vide which an appeal preferred by him against the judgment dated 01.03.2017 of the Rent Controller, Rewari was dismissed. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Brief facts as pleaded in the rent petition filed by respondents-landlords may be noticed as thus: landlords purchased the shop bearing house tax No.2073, now bearing house tax No.2073/1-2073-A, situated at Nai Basti, Rewari (hereinafter referred to as 'demised shop') vide registered sale deeds bearing vasika Nos.1237, 1238 and 1239 dated 29.05.2008 respectively. The tenants were duly informed about the purchase of the demised shop by the landlords. At the time, when the demised shop was purchased by the landlords, the tenant was paying rent @ Rs.600/- per month. The landlords pleaded that on account of the purchase of the demised shop the tenants had become statutory tenants. It was alleged by the landlords that the tenant had sublet the demised shop to one Sandeep s/o

Late Sh. Miter Sain Jain (respondent No.2 in the rent petition), who was thus, in possession of the demised shop. It was further submitted that the tenant had been carrying out his business from some other shop in the Punjabi Market, Rewari under the name and style of 'Hema General Store' and had no control or possession of the demised shop. It was also submitted that the tenant had been taking rent from said Sandeep (sub tenant) at the rate of Rs.5,000/- per month under a secret arrangement.

The tenant in his written statement denied the case of the landlords in toto including the factum of subletting the demised shop to Sandeep Kumar.

Upon consideration of the material on record and evidence led by the parties, Rent Controller allowed the rent petition and ordered eviction of the tenant. The appeal preferred by the tenant was dismissed by the Appellate Authority. Hence, the instant petition.

Learned counsel for the petitioner *inter alia* contends that both the Courts below failed to appreciate the evidence led by the tenant in the right perspective and gravely erred in ordering eviction of the tenant from the demised shop. He submits that the Courts below failed to appreciate that the demised shop was being used as a godown by the tenant for storing his goods and further the landlords had not led any cogent evidence in support of their pleaded case that the demised shop had been sublet to Sandeep Kumar. He further submits that it was the landlords, who had got the electricity connection disconnected from the demised shop just to harass him and hence, he was unable to place any electricity bill on record.

Heard learned counsel and perused the relevant material available on record.

In order to prove the relationship of landlord-tenant between the parties, landlords examined PW-3 Suresh Kumar and PW-4 Suresh Chand Aggarwal to prove the execution of sale deeds bearing vasika Nos.1237, 1238 and 1239 dated 29.05.2008. Being a purchaser of the demised shop, the landlords stepped into the shoes of the previous owner and became landlords of the tenant. No evidence to the contrary was led by the tenant, therefore, the relationship between the parties stands duly established.

The landlords sought eviction on two grounds; firstly, that the demised premises had been sublet by the tenant and secondly, that he had ceased to occupy the demised shop as he had not carried out any business from the demised shop since the preceding one year. It was also averred by the landlord that the tenant was in fact carrying on his business in Punjabi Market, Rewari under the name and style of 'Hema General Store'. The tenant while stepping into the witness box as RW-1 deposed contrary to his pleaded case of running his business of cosmetics from the demised shop. The tenant in fact admitted in his cross-examination that he was running a shop in Punjabi Market, Rewari under the name and style of 'Hema General Store'. Interestingly, the tenant in his written statement had submitted to the contrary that he was still running his business of cosmetics from the demised shop. However, learned counsel before this Court submitted that the demised shop was being used as a godown. The tenant has miserably failed to put-forth a clear picture and version qua the use and occupation of the demised shop. Still further, in his cross-examination, the tenant admitted that he did not even having any sale tax number and copy of any income tax return etc. He also admitted that he had got one electricity

connection installed in the year 2010 but subsequently had got it disconnected after expiry of two years of its installation. It is highly unbelievable that the tenant could have been running the business of cosmetics from the demised shop without any electricity connection. Further more, the tenant also took a self-contradictory stand that the electricity connection had been disconnected by the landlords just to harass him. The case of the landlords finds further support from the evidence of PW-6 Naresh Kumar, Local Commissioner and PW-7 Ashok Kumar, Photographer. PW-6 Naresh Kumar, Local Commissioner proved his report PW-6/A and categorically deposed that on 02.02.2012 at about 11.00 am when he visited the demised shop the same was found locked. Not only this, the lock, which was found on the demised shop, had rusted from which it was evident that the demised shop had been lying closed for a long time. In the absence of any cogent evidence to rebut the plea of landlords and other evidence led, the Appellate Authority rightly dismissed the appeal filed by the petitioner-tenant.

The petitioner-tenant was unable to point out any illegality or perversity in the impugned judgment and order passed by the Courts below. Hence, in view of the concurrent findings recorded by the Courts below, no ground is made out to interfere in the impugned judgment.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

31.08.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No