

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4252-2022
Decided on : 12.10.2022

Simar Singh

..... Petitioner

Versus

Sohan Singh and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S.Bhinder, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner-tenant is impugning the orders dated 15.01.2020 and 08.08.2022 passed by the Rent Controller and Appellate Authority, Dasuya respectively vide which an application filed under Section 38 of Punjab Rent Act, 1995 (hereinafter referred to as 'the Act') for grant of leave to contest filed by him was declined and the tenant was ordered to hand over the vacant possession of the demised shop within two months else the landlord was held entitled to recover the possession of the demised shop as per the provisions of law.

The respondent-landlord instituted an eviction petition under Section 24 of the Act wherein the leave to defend filed by the petitioner was dismissed as already detailed hereinabove.

Learned counsel appearing for the petitioner-tenant submits that the impugned order suffers from patent illegality and is contrary to the settled principles of law. Hence, it deserves to be set aside. Learned

counsel has vehemently urged that both the Courts below while passing the impugned orders failed to appreciate that since the petitioner had been paying rent to Mohan Singh, brother of respondent No.1, and since even the shop in question had not been let out by respondent no.1 to the petitioner, there existed no relationship of landlord-tenant between him and respondent No.1. Hence, the eviction petition under the Act was not maintainable. Learned counsel still further submits that in the aforementioned circumstances the only remedy available to respondent No.1 was to seek possession of the demised premises by filing a civil suit to the said effect. He further submits that the rent petition so filed was also bad for non-joinder of the other co-owners of the demised premises.

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

A perusal of the impugned orders reveal that the petitioner in his application filed for leave to contest categorically pleaded that he was in physical possession of the demised shop in the capacity of a tenant and still further there existed a landlord-tenant relationship between him and respondent No.1. Not only this, it was also pleaded by the petitioner that he had paid rent to respondent No.1 regularly upto 02.02.2013. Therefore, it is abundantly clear that the petitioner has now taken a 'U' turn before this Court by coming up with an altogether contrary stand to the one as taken in his application under Section 38 of the Act.

The demised shop was let out by father of respondent No.1 and after his death, respondent No.1 inherited the shop in question along with his brothers and hence, they stepped into the shoes of their father. The

factum of ownership of respondent No.1 over the demised shop has not even been disputed by the petitioner. This Court thus, does not concur with the submissions made by learned counsel for the petitioner that the rent petition filed by respondent No.1 was not maintainable. Respondent No.1 being a co-owner of the demised shop, which was let out by his father to the petitioner, would therefore be entitled to recover the possession thereof.

It is also settled principle of law that even a co-owner can seek eviction of the tenant from the demised premises and it is not at all necessary for him/her to implead all the other co-owners. Non Resident Indian/NRI owner in order to seek eviction of a tenant under Section 24(3) of the Act is just required to establish the following:

- (i)that he/she is a NRI.
- (ii)that he/she has returned to India permanently.
- (iii)That he/she or his/her dependents require(s) the demised premises for genuine reasons.

In the instant case, the petitioner has failed to bring to the notice of this Court any material to prima facie show that respondent No.1 does not fulfill any of the above requirement.

As a sequel to the above, the instant petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

12.10.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No