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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-13824-CII-2022 in/and
CR-6698-2019 (O&M)
Date of Decision: 11.11.2022

SATNARAIN

.. Petitioner

Vs.

SATNARAIN (DECEASED) THROUGH HIS LRS

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Kaith, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)
CM-13824-CII-2022

This application has been filed under Order IX Rule 4 read with Section 151 CPC for restoration of present revision petition, which was dismissed in default for non-prosecution on 30.09.2022.

For the reasons mentioned in the application, the same is allowed and the revision petition is restored to its original number.

CR-6698-2019 (O&M)

Petitioner has filed this revision petition under Section 15 (6) Haryana Urban (Control of Rent and Eviction) Act, 1973 against the judgment dated 08.08.2019 passed by the Appellate Authority (under Rent Act, Narnaul), whereby the appeal filed by the respondent/tenant against the judgment dated 17.05.2016 passed by Rent Controller, Narnaul allowing the rent petition, has been dismissed.

Learned counsel for the petitioner has argued that the shop was given on rent by respondent (landlord) through two rent deeds executed in

back portion of the shop respectively, but the eviction petition was founded only on the strength of rent deed Ex.PW-5/A. He submits that the petitioner is carrying on the business of tailoring in the said premises for the last nearly five decades and the Rent Controller has erroneously ordered his eviction on the sole ground that the building is unfit for human habitation. It is pointed out by the learned counsel that the report (Ex.PW-2/B) by the Local Commissioner (PW-2)-Gurcharan Singh, SDO, PWD (B&R) could not have been relied upon to oust the petitioner as the report is lacking material particulars regarding date and time of the visit of the Local Commissioner. He submits that the Appellate Authority has also failed to examine the evidence on record carefully, therefore, the impugned judgment dated 08.08.2019 passed by the Appellate Authority, Narnaul deserves to be set aside and the eviction petition filed by the landlord be dismissed.

After hearing the learned counsel and considering the pleadings, evidence and other material on record, this Court finds that the Rent Controller as well as the Appellate Authority have given concurrent findings of fact regarding condition of the building. As per the report (Ex. PW-B), which is accompanied with the photographs as well, it is clear that the demised premises has developed big cracks. The evidence of the landlord is further supported with the admission of the tenant's witness, namely, Anand Gopal (RW-1), who not only admitted the age of the building to be 50 years old, but further stated that indeed the Local Commissioner had visited the spot in his presence. Thus, the doubt raised by the learned counsel regarding the report of the Local Commissioner is baseless. Apart from it, during the course of hearing learned counsel for the petitioner has fairly admitted that even as per the evidence of Jagdish Ram,

Building Expert, examined by the tenant, there is a wide crack in the wall.

Consequently, this Court has no hesitation in holding that the concurrent findings of fact arrived at by the Rent Controller as well as Appellate Authority are based upon proper appreciation of evidence. The impugned judgment does not suffer from any illegality or impropriety, therefore, no interference is called for.

The revision petition fails and is dismissed.

11.11.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No