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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.4561-2022 (O&M)
Date of Decision: 09.11.2022

Om Parkash and another

.. Petitioners

Vs.

Naveen

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ajay Jain, Advocate for the petitioners.

Mr. Anurag Jain, Advocate and
Mr. Vijay Singla, Advocate
for the respondent.

...

Manoj Bajaj, J. (Oral)

Petitioners (tenants) have filed this revision petition to challenge the judgment dated 30.09.2022 passed in Rent Appeal No.76 of 2016 by the Appellate Authority, Hisar, whereby the judgment of eviction dated 09.02.2016 passed in Rent Petition No.12/2014 by the Rent Controller, Hisar was upheld.

Learned counsel for the petitioners has argued that the eviction petition by respondent (landlord) was founded upon three grounds: (i) Non-payment of rent @ Rs.330/- p.m. w.e.f. 01.09.2013; (ii) the tenanted premises is required by landlord & his wife for personal use and occupation, who intend to start business of kiriyana store & (iii) the demised premises, being in dilapidated condition, is unfit and unsafe for human habitation.

Learned counsel submits that the eviction petition survived only on the ground Nos.2 and 3, as arrears of rent stood tendered to the landlord before Rent Controller. He further submits that the finding on

ground No.3 relating to the condition of the demised premises has been delivered against the landlord, but eviction of tenant has been ordered by accepting the ground that the property is required by landlord for personal use and occupation. According to learned counsel, previously, a similar petition for eviction was filed by the landlord in the year 1999 and the same was dismissed by the Rent Controller, Hisar on 25.08.2007 and this decision was further upheld by Appellate Authority on 10.02.2014 (Annexure P-4). It is pointed out while dismissing the eviction petition, the appellate Court had observed that though Naveen-landlord claimed himself to be owner of the property in question, but his father Pritam Lal Chaudhary has also in his affidavit claimed himself as owner of the tenanted premises and further the appellate authority noticed various properties owned by by Pritam Lal Chaudhary and returned a categoric finding that the ground of separation of properties has been raised only to seek eviction of tenant.

Mr. Jain, learned counsel has argued that the present petition was filed in July, 2014 i.e. few months after dismissal of the appeal on 10.02.2014, and in this short period, there is no material change in circumstances, much less a fresh ground that would justify the filing eviction petition, but the Rent Controller by misreading the evidence has ordered his eviction. He has vehemently argued that landlord-Naveen has failed to prove his ownership over the demised premises as according to respondent, he became owner of this property by virtue of a gift made by his mother. He submits that as the Appellate Authority has also failed to exercise the jurisdiction vested in it, therefore, the impugned judgment passed by the Appellate Authority warrants interference.

During the course of hearing, learned counsel for the petitioner

was asked to give details about commencement of tenancy, who in response stated that though the kiosk was constructed in the year 1974, but the material on record does not indicate the exact date of commencement of tenancy. He submits that the tenants are engaged in the business of selling “*Biris & Cigarettes*”.

At this stage, learned counsel for the respondent (landlord) appears and controverted the stand of the learned counsel for the petitioners and produced the copy of the written statement to point out that the ownership of landlord is admitted by the tenants in the written statement and further it is also admitted by them that the tenancy commenced in the year 1974. According to him, the demised premises is a wooden kiosk, which is in possession of the tenants for almost five decades, and after dismissal of the previous petition, the landlord-Naveen got married and the premises is required by him and his wife for running the business of kiriyana store in order to support the family. Mr. Jain, learned counsel for the petitioners is unable to refute the stand of Mr. Anurag Jain, learned counsel for the respondent relating to the admission made by tenants in their written statement.

After hearing the learned counsel and analyzing the material on record, this Court finds that the dismissal of previous eviction petition, would not have bearing on the merits of subsequent eviction petition, which is filed after a period of fifteen years on a new ground that the premises is required by landlord-Naveen and his wife for their personal use and occupation as they intend to start a kiriyana store. A reading of the judgment dated 10.02.2014 (Annexure P-4) would show that the Appellate Authority observed uncertainty about the ownership and status of Naveen as landlord,

in the light of the affidavit of his father and absence of any other evidence showing that the property in question fell in his share, but in the present eviction petition, tenants have categorically admitted the status of Naveen as landlord in para No.1 of their written statement. Admission is the best evidence which can be used against the party, therefore, this Court does not find any merit in the argument raised by the learned counsel for the petitioners that the respondent has failed to prove his status as the landlord of the property in question. Further, a perusal of the impugned judgment passed by the appellate authority shows that it has carefully examined the pleadings and evidence on record independently while affirming the judgment of eviction passed by the Rent Controller, Hisar. The conclusion drawn by both the Courts is based upon proper appreciation of evidence, therefore, no interference is warranted by exercising the revisional jurisdiction.

No other argument was raised.

Resultantly, the petition fails and is dismissed.

09.11.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No