

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

RSA-4155-2013 (O&M)
Date of decision : 14.07.2022

Om Dutt

...Petitioner

Versus

Pushpa Rani

....Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Namit Gautam, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

While assailing the findings of facts arrived at by the Ist Appellate Court, the defendant has come up in appeal. The parties are closely related. The suit was filed by Smt. Pushpa Rani w/o Sh. Govardhan Dutt Sharma for grant of decree of mandatory injunction directing the defendant to hand over the vacant possession of the property. Sh. Om Dutt (the appellant) is brother of Sh. Govardhan Dutt Sharma. In other words, the plaintiff is sister-in-law of Sh. Om Dutt. It has been proved on the file that originally the property was owned by Sh. Jagdish and Sh. Sukhraj, who sold the property in favour of Smt. Pushpa Rani vide registered sale deed dated 06.11.1995. It is the case of the plaintiff that Sh. Govardhan Dutt Sharma and Sh. Om Dutt started running a factory from the premises in dispute, with her permission. Subsequently,

Sh. Govardhan Dutt withdrew from the partnership but Sh. Om Dutt continued to run the business with the understanding that he will vacate the premises as and when the premises are required. The agreement was entered on account of close relationship between the parties. The plaintiff after terminating the licence by sending a notice, filed the present suit. The defendant contested the suit claiming that Sh. Jagdish and Sh. Sukh Raj never sold the property to the plaintiff. He claims that the plaintiff is not the owner of the property. In alternative, he took a stand that the property has been required by the defendants on rent @ Rs.150/- per month. The trial Court held that the registered sale deed in favour of Smt. Pushpa Rani has not been proved. Thus, the suit was dismissed. The Ist Appellate Court has reversed the aforesaid finding. It has also been held that there is no relationship of landlord-tenant between the parties in litigation.

Learned counsel representing the appellant submits that the plaintiff appeared in evidence. She admitted the signatures of her father-in-law on the rent note. Hence, he submits that there is a presumption of continuation of tenancy.

Smt. Pushpa Rani purchased the property in the year 1995. The suit was filed on 08.08.2008 i.e. nearly 13 years after the purchase. A tenancy is the result of a bilateral contract between the parties. The appellant has failed to produce any evidence to show payment of rent during all these 13 years. In fact, while filing the written statement, the appellant has denied ownership of Smt. Pushpa Rani. Moreover, after the purchase of the property by Smt. Pushpa Rani, her husband and the

appellant (her brother-in-law) continued to run the industry. No account books of the firm have been produced to prove that there was payment of a single penny to the plaintiff. No receipt evidencing payment of rent has been received.

In such circumstances, it is not appropriate to raise the presumption of continuity of tenancy. Hence, no ground to interfere is made out.

Dismissed.

14.07.2022

anju

(ANIL KSHETARPAL)

JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No