

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1511 of 2009 (O&M)

Date of Decision: 28.08.2023

Rameshwar Dass (Since Deceased) through his Legal Representatives

... Petitioner(s)

Versus

Manmohan Singh (Since Deceased) through his Legal Representative

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajiv Sharma, Advocate
for the petitioner(s).

Mr. Chetan Mittal, Senior Advocate
with Mr. Kunal Mulwani and Mr. Vipin Mahajan, Advocates
for the respondent.

Anil Kshetarpal, J.

1. The petitioner is a tenant, who has been ordered to be evicted by the Rent Controller, which, in appeal, was affirmed by the Appellate Authority. The eviction of the petitioner has been ordered on the ground of bonafide necessity of the landlord.

2. On 24.08.2023, the learned counsel representing the petitioner (tenant) offered to surrender the possession of the tenanted premises subject to the condition that the landlord refunds the amount of *mesne profits* for the purpose of use and occupation of the premises. Today, once again, in the presence of the petitioner, the learned counsel has reiterated his offer to surrender the possession of the tenanted premises to the landlord provided

the landlord refunds the amount already received as *mesne profit* for the use

and occupation of the premises.

3. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

4. The learned counsel representing the petitioner submits that on 27.03.2000, the respondent landlord transferred the shop No. 546 in favour of his mother, namely Smt.Mohinder Kaur, therefore, the necessity of the landlord is not bonafide. He further submits that the previous petition filed by the landlord was dismissed.

5. On the other hand, the learned counsel representing the respondent asserts that the respondents are three brothers and in the month of March, 1987, a family settlement arrived amongst the brothers, according to which the shop No. 545 (tenanted premises) came to the share of the respondent. He further asserts that the respondent submitted an affidavit in the Municipal Committee giving “No Objection” for the transfer of the shop No. 546 by Davinder Singh in favour of his mother. He submits that the previous petition was dismissed as the respondent wanted to convert it into the residential premises which was not accepted by the Court. It is further contended that the respondent, after retiring from the service on 30.11.1999, filed a petition on 28.03.2000 i.e. within a period of four months from the date of his retirement.

6. This Court has considered the submissions. The scope of interference in the revision petition against the concurrent orders of eviction is limited in view of the five Judges Bench in ***Hindustan Petroleum Corporation Limited v. Dilbahar Singh (2014) 9 SCC 78***. In the absence of any perversity or material error, which goes to the root of the case, the

Revisional Court is not expected to interfere.

7. In this case, it is established that in the year 1987, there was a family settlement which was acknowledged before the Civil Court. According to the aforesaid settlement, shop No. 545 came into the share of the respondent. At that time, the respondent was not the owner of shop No. 546. Hence, the argument of the learned counsel representing the petitioner that the respondent transferred the shop No. 546 in favour of his mother is without any basis.

8. The next argument of the learned counsel is also without any substance because the previous petition filed by the respondent was dismissed as he wanted to convert a non-residential premises into the residential one. The Court found that such conversion is not permissible. In this revision petition, the respondent claims that he wants to start his business as he has retired on attaining the age of superannuation. Both the Courts below have found that the requirement of the respondent is genuine. Moreover, the petitioner has, admittedly, not paid the amount of *mesne profits* assessed by this Court from the month of March, 2020.

9. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 28, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No