

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(102)

CR No.2235 of 2004 (O&M)
Date of Decision : 10.01.2023

Ravi Kumar

....Petitioner

Versus

Pritpal Kaur

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Vikas Singh, Advocate and
Mr. A.S. Pannu, Advocate
for the petitioner.

Mr. B.S. Toor, Advocate
for the respondent.

Harsimran Singh Sethi, J. (Oral)

The present Civil Revision Petition has been filed challenging the order passed by the Appellate Authority dated 09.03.2004 by which the appeal filed by the respondent-landlord has been allowed and the rent petition has been allowed in favour of the respondent-landlord qua the eviction of the petitioner, who is tenant of the property concerned.

Learned counsel appearing on behalf of the petitioner argues that in the present petition, nothing has come on record to show that the respondent-landlord is the owner of the premises in question and further, even if it is assumed for the sake of argument that the sale deed dated 15.10.1991, which has been proved as Ex.P-1, described the respondent as the owner of the premises in question, the said sale deed has not been

co-related qua the premises in question, which is being occupied by the petitioner as a tenant.

Learned counsel for the petitioner further submits that as there is no assessment of the rent of the property in question, which allegedly has not been paid by the petitioner, which has led to the eviction, the order passed by the Appellate Authority dated 09.03.2004 allowing rent petition is liable to be set aside.

Learned counsel appearing on behalf of the respondent-landlord submits that the Rent Controller did not appreciate the facts in correct perspective by taking into consideration the fact that the sale deed Ex.P-1 was on record and the description of the property was given in the site plan, which was appended as Ex.P-2, coupled with the record of Municipal Council.

Learned counsel for the respondent further submits that the ownership of the property in favour of the respondent-landlord was co-related with the record of the Municipal Council, which has gone unrebutted, according to which, the property in question has been shown to be in the ownership of the respondent-landlord and was let out to the petitioner @ ₹500/- per month.

I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

The sale deed of the property in question has been placed on record as Ex.P-1 and the same has already been proved that respondent Pritpal Kaur is the owner. Learned counsel for the petitioner has not been able to rebut the said fact. Not only this, the ownership was also co-related by the site plan Ex.P-2, according to which, the property which

is owned by the respondent is the same property, which was let out to the petitioner. Learned counsel for the petitioner has not been able to disprove the said fact that according to the sale deed Ex.P-1 coupled with the site plan, the property in question is owned by respondent Pritpal Kaur.

Not only this, the property in question has also been recorded in the municipal record under the ownership of the respondent-landlord. Further, as per the municipal record, which has been brought on record, which has been proved and said fact has gone unrebutted that the said property is being occupied as tenant by the petitioner at the monthly rent of ₹500/- per month. Once the said findings of facts have already been recorded by the Lower Appellate Court and that too, on the basis of the evidence, which has come on record, the assertion of the learned counsel for the petitioner that there is no co-relation of the property being owned by the respondent and the property which is under the tenency of the petitioner, is incorrect and contrary to the evidence on record. There is no perversity in the findings recorded by the Appellate Authority in the order dated 09.03.2004 by which, the appeal filed by the respondent-landlord against the judgment of the Rent Controller dated 08.08.2003 has been accepted.

Learned counsel for the petitioner further submits that even otherwise, nothing has come on record qua the rent, which the petitioner was liable to pay which rent has not been paid, which fact has led to the eviction of the petitioner from the premises in question, hence, in the absence of any evidence, which has come on record, qua the rent payable, it cannot be said that the petitioner was under the arrears of rent, which has been taken as a ground for passing the order of eviction.

The said argument of the learned counsel for the petitioner cannot be accepted for the reason that in the municipal record, where the property is being shown under the tenency of the petitioner, it has been duly mentioned that the same is let out for ₹500/- per month. The said record has duly been proved and has gone unrebutted. The findings that municipal record established the tenency of the petitioner in the premises in question and same was for ₹500/- per month, same is good enough for recording of the fact that petitioner-tenant was liable to pay the rent for the property in question. Further, after the grant of interim order by this Court in the present Regular Second Appeal, keeping in view the condition imposed on payment of arrears of rent, appellant cleared the entire arrears of rent @ ₹500/- per month and also kept on paying the said amount of ₹500/- as rent regularly, which clearly shows that the amount of rent was settled between the parties are recorded in the Municipal record as well hence, the same was required to be paid but appellant defaulted.

Learned counsel for the petitioner is not able to show that any amount of rent was ever paid by him to the landlord upto the decision of the lower Appellate Court and upto the date of filing of the rent petition or thereafter. Once nothing has come on record as evidence that the petitioner was paying the said rent, the ground taken by the Lower Appellate Court for accepting the plea of the respondent for eviction, cannot be faulted with.

In the present case, the petitioner tried to oust the jurisdiction of the respondent qua the ownership of the premises in question. The said question of fact has been established on the basis of record produced

including the sale deed, site plan and municipal record. Enough evidence is available on record, which has gone unrebutted by the petitioner to oust the jurisdiction of the respondent to claim eviction of the petitioner from the premises in question.

Keeping in view the above, no infirmity or perversity has been found in the order passed by the Lower Appellate Court accepting the rent petition filed by the petitioner. The present revision petition is dismissed.

CM No.8197-CII of 2004

Application is accordingly dismissed.

January 10, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

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