

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2468 of 2017 (O&M)

**Reserved On: 06.11.2023
Pronounced On: 09.11.2023**

Veena

... Petitioner(s)

Versus

Rani

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

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

Mr. Gaurav Rana, Advocate
for Mr. Sahil Khunger, Advocate
for the respondent.

Anil Kshetarpal, J.

1. This revision petition has been filed by the tenant to challenge the correctness of the order made by the Rent Controller evicting her from the residential house by the Rent Controller which, in appeal, has been affirmed by the Appellate Authority. The eviction of the petitioner was sought on the ground that she has failed to pay the arrears of rent from 01.09.2011 upto the date of filing of the petition. The rent petition was filed on 05.09.2012. It was also stated that the tenant's husband is a quarrelsome and a short-tempered person. Even all the neighbours complained against him that he creates nuisance in the locality

2. The petitioner, while contesting the case, submitted that the landlady is not the co-owner of the house. It was claimed that there is no

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relationship of landlady and tenant between the petitioner and the respondent and the rent is being paid by the respondent previously to late Sh. Satpal and thereafter, to his wife late Smt.Satya Devi. After their death, the rent has been paid till 01.11.2012 to Raju son of late Sh.Satpal.

3. There is a confusion with regard to the name of the predecessor-in-interest of the landlady. Before the Rent Controller, it has come in evidence that originally, late Sh.Satpal was the owner, whereas before the Appellate Authority, it has come in evidence that late Sh.Dharampal was the original allottee. However, that would not have any adverse impact on the decision of the case.

4. From the pleadings of the parties, the following issues were framed:-

- “1. *Whether there is no relationship between landlord and tenant between the parties? OPR*
2. *Whether petitioner is entitled for the eviction of the respondent on the ground of arrears of rent, if so, to what extent? OPP*
3. *Whether respondents are creating nuisance? OPP*
4. *Whether the present petition is not maintainable against the answering respondents? OPP*
5. *Relief.”*

5. The landlady examined Paramjit Gill as PW.1, who tendered into evidence the documents Ex.P1 to Ex.P43. Ex.P1 is the site plan and Ex.P2 to Ex.P42 are the copies of the rent receipts. She also examined Parveen Kumari as PW.2. She herself stepped into the witness box as PW.3

and produced the documents Ex.P44 to Ex.51. She also examined Renuka, Civil Ahlmad, who produced the summoned record titled “Veena v. Punjab State Power Corporation Limited”.

6. On the other hand, the petitioner (tenant) herself stepped into the witness box as RW.1 and tendered into evidence the documents Mark “A” and Mark “B”. RW.2 Asha and RW.3 Sanjiv Kumar were also examined.

7. On the reading of the judgment passed by the Rent Controller, it becomes evident that substantial part of the judgment is with regard to the fact about the relationship of the landlady and tenant. The Rent Controller relied upon the Will/Family Settlement Ex.P45 executed by late Sh.Dharampal. The landlady claims that she has become the owner of the house by virtue of the aforesaid document. The aforesaid document is undated.

8. The Rent Controller, after deciding the relationship of the landlady and tenant between the parties, without discussing the evidence, held that the tenant is in arrears of the rent. There is absolutely no discussion as to how the Rent Controller came to a conclusion that the tenant is in arrears of rent. Anyhow, the eviction order was passed.

9. The tenant has filed an appeal. The Appellate Authority has affirmed the findings of the Rent Controller to the effect that there is relationship of landlady and tenant between the parties on the basis of the Will/Family Settlement Ex.P45. It was also held that the admission of the landlady that her husband had received the rent upto 01.11.2012 was due to

slip of tongue, therefore, the order passed by the Rent Controller was

affirmed.

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

11. On the one hand, the learned counsel representing the petitioner (tenant), while referring to the deposition of the respondent/landlady, submits that the landlady has categorically admitted that the rent stood paid upto 01.11.2012 to her husband. It is contended that the Rent Controller and the Appellate Authority have erred in ordering the eviction of the tenant on the ground of non-payment of rent particularly when the landlady categorically admits the receipt of the rent by her husband.

12. On the other hand, the learned counsel representing the respondent has supported the judgments passed by the Rent Controller and the Appellate Authority.

13. A perusal of the Will/Family Settlement Ex.P45, executed by late Sh.Dharampal, it becomes evident that he had left behind widow Smt.Satya Devi, two sons, namely Jugal Kishore and Raj Kumar and two married daughters, namely Veena and Seema. It has specifically been noted that Raj Kumar is a drunkard, therefore, he has bequeathed the property in favour of Rani wife of Raj Kumar. It was specifically stated that Raj Kumar will not sell the property without the written permission from his own wife, namely Rani. In this case, the tenant has not absolutely denied the relationship of the landlord and tenant between the parties. It is admitted by the tenant that previously, the rent was paid to late Sh.Dharampal alias Satpal. Subsequently, after his death, the rent was being paid to Smt. Satya Devi widow of late Sh.Dharampal. After her death, the rent was being paid

to Raju son of late Smt.Satya Devi. The respondent-landlady claims that she became owner pursuant to the Will/Family Settlement. It is not proved on record that the tenant was informed of the fact that Smt.Rani is the landlady-cum-owner of the property after the death of late Sh.Dharampal. She has categorically admitted that her husband Raju alias Raj Kumar has received the rent upto 01.11.2012, whereas the rent petition was filed on 05.09.2012. The Appellate Authority has erred in assuming that the aforesaid statement of the landlady is because of slip of tongue. Her counsel never made a request to the Court for re-examination of Rani in order to clarify the aforesaid position. The landlady has also not examined her husband-Raj Kumar. Once she has categorically admitted that the rent has been paid to her husband, the order evicting the petitioner is not sustainable. It is not her case that previously her husband was not receiving rent. There is no evidence to prove that the landlady informed the tenant that the rent should not be paid to Raju alias Raj Kumar, her husband, who is the natural heir of late Sh.Dharampal, the original landlord/owner. In these circumstances, it was not appropriate for the Rent Controller as well as the Appellate Authority to order eviction of the tenant. While upholding the finding of fact, arrived at by the Rent Controller and the Appellate Authority with respect to the Will/Family Settlement, this Court is of the view that both the Courts below have erred in ordering eviction of the tenant from the tenanted premises.

14. For the reasons stated above, the present revision petition is allowed. The impugned orders are set aside and the rent petition filed by the respondent shall stand dismissed.

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

(Anil Kshetarpal)
Judge

November 09, 2023
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No