

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(248)

CR-4680-2018 (O&M)

Date of Decision : April 20, 2023

Dharampal

.. Petitioner

Versus

Lachhman Dass Through LRs Manbhari and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Yagsimant Attri, Advocate, for
Mr. Rajinder Goyal, Advocate, for the petitioner.

Mr. Ravi Dutt Sharma, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-14935-CII-2018

As prayed for, the application is allowed.

Delay of 37 days in re-filing the revision petition is condoned.

CR-4680-2018

Present civil revision petition has been filed challenging the order dated 15.03.2018 passed by the Appellate Authority under the Haryana Urban (Control of Rent & Eviction) Act, 1973.

Learned counsel for the petitioner raises an argument that the rent note Ex.P-1 has not been accepted on the ground that the same was not a registered document and the order dated 29.05.2015 passed by the Rent Controller has been set aside without appreciating the correct facts

especially when Ex.P-1 clearly recites that the rent agreement is for the period of 11 months with an increase of 20% every three years, hence, the order passed by the Appellate Authority dated 15.03.2018 is liable to be set aside.

On the other hand, learned counsel for the respondents submits that the order passed by the Appellate Authority is in consonance with the law settled by the Coordinate Bench of this Court in ***CR No.2980 of 2009 titled as Hira Lal vs. Ram Lal, decided on 19.07.2018*** according to which, un-registered lease deed/rent note of immovable property making a provision for increase of rent every three years by 20% cannot be enforced.

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

The only question raised before this Court is whether the order passed by the Appellate Authority dated 15.03.20218 is in accordance with law or not and whether the decision of not taking into account the rent note Ex.P-1, not being registered document, is valid or not.

The judgment in ***Hira Lal's case (supra)*** covers the case of the respondents in their favour. The judgment passed by the Coordinate Bench of this Court in ***Hira Lal's case (supra)*** is as under under:-

“Landlord-petitioner is in the revision petition against the judgment passed by the learned appellate authority. The question which needs consideration is:-

“Whether an unregistered lease deed/rent note of immovable property making a provision for increase of rent after every 3 years by 20% can be enforced?”

It is undisputed that the rent note between the parties was executed on 05.10.1998, starting the tenancy with effect from 01.10.1998. The rent agreed to be paid was Rs.2,000/-

per month. As per rent note, period of tenancy was for a period of 11 months. However, at the end of the rent note, a note was given that after expiry of every 3 years of the tenancy, rent would increase by 20%.

Learned counsel for the petitioner has relied upon a Division Bench judgment of this court in the case of Smt. Hardev Kaur and others v. M/s Ghazal Restaurant, Chandigarh, 1992 Current Law Journal, 704 to contend that such clause can be enforced as the East Punjab Urban Rent Restriction Act, 1949 does not bar the agreement to increase the rent.

No doubt, the aforesaid Division Bench judgment do lay down as contended by learned counsel for the petitioner. However, there is a big hurdle in the path of the landlord-petitioner. If, a rent note is considered for a period beyond one year, it is required to be compulsorily registered under Section 17(1)(d) of the Registration Act, 1908. In the absence of the registration of the lease deed/rent note, such lease deed or rent note is not admissible in evidence.

Learned counsel for the respondent has relied upon two Single Bench judgments of this court laying down that such increase clause in case of an unregistered lease deed cannot be enforced. Reference in this regard can be made to the judgments passed in the cases of Satwant Kaur v. Narinder Singh, 2011 (1) RCR(Civil), 214 and Sunita Bansal and another v. Suresh Kumar Goyal, 2014 (12) RCR(Civil), 2273. Learned counsel for the respondent has further pointed out that the Hon'ble Supreme Court while deciding the appeal in the case of K.B.Saha and Sons Private Limited v. Development Consultant Limited, (2008) 2 SCC, 564 has held that the unregistered lease deed can only be used for collateral purpose. Paragraph 34 of the judgment is extracted as under:-

“34. From the principles laid down in the various decisions of this Court and the High Courts, as referred to

hereinabove, it is evident that:-

1. A document required to be registered, if unregistered is not admissible into evidence under Section 49 of the Registration Act.

2. Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act.

3. A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.

4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards.

5. If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose.”

In view of the aforesaid discussion, this court does not find any good ground to interfere with the order passed by the learned appellate authority.

The revision petition is dismissed.”

A bare perusal of the above order would show that the case of the petitioner herein is identical to that of ***Hira Lal's case (supra)*** and the learned counsel for the petitioner has not been able to differentiate the said judgment not to be made applicable to him.

Keeping in view the above, the order passed by the Appellate Authority dated 15.03.2018 is in consonance with the law laid down in ***Hira Lal's case (supra)*** and needs no interference by this Court and the present revision petition is accordingly dismissed.

CM-14936-CII-2018

As the main civil revision petition has been dismissed, present application also stands dismissed.

April 20, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No