

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CM-25466-CII-2018 in/&
CR-524-2017
Date of Decision :18.01.2023

Agyapal Singh

...Petitioner

Versus

Gursharan Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kunal Mulwani, Advocate for the petitioner.

Mr. B.D. Sharma, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

CR-524-2017

In the present revision petition filed by the tenant, the challenge is to order dated 31.08.2015 passed by the Rent Controller, Amritsar by which, an eviction petition filed by the respondent-landlady was allowed as well as order dated 29.10.2016 passed by the lower Appellate Court by which, the eviction order passed by the Rent Controller, Amritsar has been upheld.

Learned counsel for the petitioner argues that in the petition filed by the respondent-landlady, there is a concealment of facts by her qua the existence of other property owned by her hence, as there is concealment of facts, the eviction petition filed by the respondent-landlady qua the property in question was liable to be dismissed on the said ground.

Learned counsel for the petitioner has relied upon the statement

of the respondent-landlady in another case so as to support the said ground that there are five shops in the possession of the respondent-landlady, which factum has been concealed by her while filing the rent petition.

Learned counsel for the petitioner submits that keeping in view the settled principle of law that where an owner of the premises mislead the Court with false facts, the rent petition is liable to be dismissed but the Courts below have not appreciated the said fact in correct perspective hence, order dated 31.08.2015 passed by the Rent Controller, Amritsar as well as order dated 29.10.2016 passed by the lower Appellate Court are liable to be set aside.

Learned counsel for the respondent submits that the interpretation being given to the statement of the respondent-landlady, copy of which has been appended with the present revision petition as Annexure P/3 is incorrect as no factum was concealed by the respondent-landlady from the Courts below and rather the same has been appreciated by the Courts below keeping in view the evidence, which has come on record coupled with the statement of the respondent himself and thereafter, the findings have been recorded by the Courts below and there is no misrepresentation on the part of the respondent-landlady while allowing the claim of the landlady qua eviction of the petitioner from the premises in question.

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

The only contention raised by the learned counsel for the petitioner in the present petition is that the respondent-landlady has five shops in her possession, which fact has been accepted by her in her

testimony given in another case, is factually incorrect. In the testimony of the respondent-landlady, which has been appended with the present revision petition as Annexure P/3 in which she has clearly stated that there are three shops in her possession, out of which, one shop she had already sold and one is in her possession and another one is in the possession of the petitioner-tenant. The suggestion put to her that she was having five shops and remaining shops are being used by her as rooms, has been denied by her which is clear from her testimony, wherein, she has stated that it is wrong to state that she had given a statement in another case that she has five shops with her, out of which one is in the possession of the respondent-landlady and one is in the possession of the petitioner-tenant and three other shops are being used by her as rooms. The testimony of the respondent-landlady is not being read in a correct perspective so as to allege that there were five shops with her, description of which was concealed from the Court below by the respondent-landlady while filing the rent petition.

Further, the said argument has been appreciated by the Courts below on the basis of the evidence already on record. The Courts below have relied upon a site plan so as to determine the question whether there are any other shops in the possession of the respondent-landlady. The Rent Controller recorded the findings that the tenant himself in his testimony has conceded the site plan produced as Ex-AX according to which, on the one side of the building in question there is Sandhu Niwas and on the other side exist building of one Manjit Singh Narula and there is only one premises which is with the tenant. Once, in the cross-examination the said fact and the building plan was accepted to be correct by the petitioner himself and according to the said building plan, there is no shop alleged to be owned by

the respondent-landlady as being claimed, it cannot be said that the findings of the Rent Controller, which have been upheld by the lower Appellate Court are contrary to the facts on record or evidence is perverse in any manner.

Learned counsel for the petitioner further submits that in another case of eviction filed by the present respondent by another landlord, the statement of the respondent was also recorded which proves the fact that there was suppression by the landlady qua the ownership of property other than mentioned in the rent petition.

From the said statement, it is not proved that there were five shops available with the respondent-landlady, which fact is being projected in the present revision petition by the petitioner-tenant. Further, the said statement which is being mentioned, it cannot be ascertained that same is qua the present property or not hence, the same cannot be correlated at all so as to grant the benefit to the petitioner. Further, in the cross-examination, the said statement was put to the landlady, which fact has been clarified by her, which has been taken into consideration by the Courts below to record a finding that there was no misrepresentation on the part of the respondent-landlady while filing the eviction petition. Hence, the allegation of suppression of fact by the landlady has not been proved.

Learned counsel for the petitioner has not been able to point out any perversity in the findings so recorded by the Courts below on the basis of the evidence which has already come on record. Hence, no interference is called for by this Court in the present revision petition and the same is accordingly dismissed as no other argument has been raised during the hearing.

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Application is disposed of having been not pressed.

January 18, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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