

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR-3129-2019 (O&M)
DECIDED ON: 13.10.2023**

AMBRISH SINGAL AND ANOTHER

.....PETITIONERS

VERSUS

GIRBAL KRISHAN

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Devinderpal Singh, Advocate
for the petitioners.

SANJAY VASHISTH, J (ORAL)

1. Present revision petition has been filed by the petitioners/landlords against the concurrent findings recorded by both the Courts below i.e. Court of Ld. Rent Controller and thereafter, by Appellate Authority under the provisions of the East Punjab Urban Rent Restriction Act, 1949.

2. Ejectment petition was filed by the petitioners i.e. 1. Dr. Ambrish Singal s/o late Sh. Vinod Singal and 2. Smt. Indira Singal, widow of Sh. Vinod Singal for ejectment of the respondent (tenant) alleging that the shop in question is under the ownership of the petitioners as they have inherited the same after the death of Vinod Singal (father of petitioner No.1 and husband of petitioner No.2).

3. It has been averred that respondent took the shop measuring 7 ft. x17 ft. on rental basis @ Rs.850/- per month from Vinod Singal.

The grounds taken for the purpose of eviction of the demised premises are that:-

- a) tenant has not paid the rent of the shop despite many requests, thus he is a bad tenant;
- b) shop in question is required by the petitioners for their personal necessity because petitioners want to settle at Sangrur and petitioner No.1 wants to practice as a medical practitioner at Sangrur by opening ultra modern nursing home in the shop in question, and
- c) petitioners have no other shop at Sangrur in their occupation in any other capacity, whatsoever, etc.

4. In the written statement filed by the respondent/tenant, preliminary objection was taken that the petitioners are not the owners of the shop in question as Vinod Singal (since deceased) was never owner of the same. Thus, no question of inheriting the shop in question by the petitioners from Vinod Singal arises.

It has also been pleaded that petition is bad for non-joinder of necessary parties and the petitioners have filed the petition only to grab the property.

Further pleaded that Hari Lal was the owner of three shops and all the three shops were inherited by his three sons namely Dr. Vinod, Dr. Subodh and Dr. Ashok in a family settlement. Shop in question belongs to Dr. Ashok, who had already sold the same to Smt. Anita, wife of respondent/tenant on 18.05.2012 by executing a sale deed.

It is further pleaded that the shop in dispute was taken by him on rental basis on 24.07.1989 from Dr. Ashok Kumar. However, Dr. Vinod had affixed his signature on behalf of the original owner (his brother). On merits, all other contentions have been denied in the written statement and thus, prayed for dismissal of the rent petition.

5. After filing of the replication by the petitioners, learned Rent Controller vide its order dated 11.12.2014, framed the following issues:-

- “1. Whether there exists relationship of landlord and tenant between the parties? OPA*
- 2. Whether the respondent is in arrears of rent and as such, he is liable to be evicted? OPA*
- 3. Whether the petitioners being the landlord requires the demised premises for his own use and occupation and as such the respondent is liable to be evicted? OPA*
- 4. Whether the present eviction petition is bad for non-joinder of necessary parties? OPR*
- 5. Relief.”*

6. Regarding the first issue, i.e. to examine the disputed relationship of landlord and tenant between the parties, learned Rent Controller found that there is nothing available on record to conclude that property in question was ever owned by Vinod Singal. Although, there is no dispute regarding the admission made by the respondent/tenant that Hari Lal Singal was having ownership of three shops. Even, no document has been produced showing the ownership of Dr. Hari Lal of whole of the building.

In fact, legal representatives of Vinod Singal, who filed the petition, placed reliance only upon the Will dated 03.05.1995 (Ex. A-9). Apart from this, there is no other documentary evidence produced by them in regard to the ownership.

7. Court also found that in the rent note dated 24.07.1989, property is shown to be owned by Dr. Ashok Kumar, who is brother of signatory-Vinod Kumar. Even, as per the said rent note, owner is Ashok Kumar but he was not found to be party to the present ejectment petition.

8. While arguing the present revision petition, counsel for the petitioners relies upon Section 2(c) of the Punjab Rent Act, 1995, and submits that any person who receives the rent can also be called as landlord.

Definition of 'Landlord' defined under Section 2(c) of the Punjab Rent Act, 1995, is reproduced hereunder:-

“(c) “Landlord” means a person who, for the time being is receiving or is entitled to receive the rent of any premises, whether on his own account or on account of or on behalf of, or for the benefit of any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant.”

9. As far as the first part of the Section 2(c) is concerned, this Court is of the view that same cannot be read in isolation because the word **“received rent for the time being”** if read in conjunction with the subsequent part of the provision, it carries its implied meaning that such

person is required to have been authorised for '*such period*' to receive rent on behalf of somebody i.e. actual owner.

10. In the present petition, counsel for the petitioners failed to point out any documentary evidence or even statement of the relevant witness, whereby, he could say that actual owner i.e. Dr. Ashok had authorised him to receive the rent on his behalf, for the period which is explained in the present petition.

Even, the petitioners failed to implead Dr. Ashok as party to the rent petition in any capacity or even, failed to produce him in the witness-box to substantiate the pleadings raised by the petitioners in their rent petition.

11. Therefore, there being no explanation with the petitioners for not impleading Dr. Ashok as party nor produced as witness by no stretch of imagination, petitioners or their ancestor-Vinod Singal could be considered as actual landlord of the property in question. Rather, a doubt emerges as to why Dr. Ashok has been kept away from the proceedings of the rent petition, filed at the instance of the petitioners.

12. Needless to observe here that case of the petitioners is to seek ejectment of the tenant from the property. Onus was firstly upon the petitioners to discharge their duty and in the absence of any such evidence for discharging the onus, burden cannot be shifted upon the respondent/tenant.

13. To further stretch out the facts available on record, this Court has noticed the findings recorded by learned Appellate Authority in

its paragraph No.16, wherein, it was recorded that the reference of sale deed dated 18.05.2012 (Ex.D-2) by which respondent took a stand that the property in question had been sold out by Dr. Ashok to Anita, who is wife of respondent/tenant, is held to be well-established because name of Anita has been incorporated in the Municipal Council Assessment Register (Ex.D-6).

14. Findings recorded by the Appellate Authority in regard to the controversy in the present petition in paragraph Nos.17 and 18 are reproduced here below:-

*“**17.** The main controversy as to relationship of landlord and tenant between Vinod Kumar and respondent and after the death of Vinod Kumar, the petitioners have stepped into the shoes of Vinod Kumar and they claimed to have become landlord. In this regard, it is worthwhile to discuss here that the respondent has proved on record the copy of the rent note Ex.D3 dated 31.05.1988, which was executed between Phool Chand, previous tenant and Dr. Ashok Singal, pertaining to the shop in question, prior to that of the respondent, having obtained the same on rent, vide rent note dated 24.07.1989 Ex.D1. The rent note dated 24.07.1989 Ex.D1 reveals that Dr. Hari Lal, attorney of Dr. Ashok Singal had been party to the rent note, in favour of respondent, although, signed by Dr. Vinod Kumar on behalf of the owner. The mere signing of the document on behalf of the owner does not confer any right, title upon Dr. Vinod Kumar, therefore, the claim of the petitioners being the son and wife of Dr. Vinod Kumar, after the death of Dr. Vinod Kumar, looks absurd, when after the death of Dr. Vinod Kumar, Dr. Ashok Kumar Singal, had executed sale deed 18.05.2012 Ex.D2 in favour of DW-1 Anita wife of respondent. Besides this, the respondent has also proved on record Ex.D6 i.e. house tax assessment register regarding property unit no. B-IV Ex.D6, wherein, the name of owner recorded is, Ashok Kumar. Although, the entry in the house tax register is for the purpose of collecting rent and not guarantee ownership, yet, there is no evidence adduced by*

the petitioners in this regard. This fact also cannot be ignored that the entries recorded in the register are on the basis of survey and the documents.

18. *Furthermore, there is no evidence that Dr. Vinod Kumar had received rent from the respondent, therefore, it has rightly been held by the learned Rent Controller that there was no relationship of landlord and tenant between the respondent and Vinod Kumar. Although, DW-1 Anita admitted in her cross-examination that after the death of Dr. Vinod Kumar, respondent paid rent till 12.01.2012 directly to Dr. Ashok Kumar and before 2012, respondent also paid rent to Indira Singal once or twice, but the petitioner no.2 never alleged herself to be landlady, is of no help to the petitioners. It was rightly held that since the petitioners have not been able to prove the relationship of landlord and tenant between the parties, therefore, petitioners were not entitled to ejectment on the other ground like personal necessity etc.”*

15. After hearing the counsel for the petitioners and also noticing the reasonings given by both the Courts below, this Court is also of the view that petitioners have completely failed in establishing the relationship of landlord and tenant, which was the onus upon them under issue No.1.

16. Thus, present petition stands **dismissed**.

(SANJAY VASHISTH)
JUDGE

13.10.2023

Lavisha

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