

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3313 of 2022
Pronounced on : 10.08.2023

Sukhdev Singh

.....Petitioner

Versus

Mulkh Raj

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sahil Khunger, Advocate
for the petitioner.

Mr. Nitin Jain, Advocate
for the respondent.

VIKRAM AGGARWAL, J. (ORAL)

1. The present revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 04.08.2022 (Annexure P-4) passed by the Civil Judge (Junior Division), Ferozepur, vide which the objections filed by the petitioner were dismissed and warrants of possession were issued in favour of the respondent-decree Holder.

2. The respondent-decree Holder filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short “the Rent Act”) seeking eviction of the petitioner-judgment debtor from a shop situated in Bazar No.5, Ferozepur Cantt. (hereinafter referred to as the shop in dispute). The shop in dispute was originally owned by one Bimla Rani and was subsequently purchased by the respondent-decree Holder along with one Kamal Kumar vide registered sale deed dated 13.07.2009. The petitioner-judgment debtor was a tenant in the shop in

dispute at that time. Kamal Kumar later withdrew from the ownership of the shop in dispute leaving behind the respondent-decree holder as its sole owner. Eviction was sought on the grounds of non-payment of arrears of rent, personal necessity and the shop in dispute being unsafe and unfit for human habitation.

3. The Rent Controller allowed the eviction petition on the grounds of personal necessity and the shop in dispute being unsafe and unfit for human habitation. In appeal, the Appellate Authority held that the landlord and tenant relationship had not been proved and under the circumstances, the landlord could file a civil suit and not an eviction petition under the Rent Act. The eviction petition was, therefore, dismissed.

4. The matter came to this Court and vide judgment dated 03.12.2021 passed in CR No.825 of 2021 titled as Mulkh Raj Vs. Sukhdev Singh, this Court reversed the findings of the Appellate Court and upheld the findings of the Rent Controller. The matter reached the Hon'ble Apex Court on a Special Leave Petition (Annexure R-1) having been filed by the present petitioner-judgment debtor. The same was, however, withdrawn unconditionally on 05.05.2022 (Annexure R-2). In the meantime, an execution petition came to be filed in which an objection petition was filed by the petitioner-judgment debtor (Annexure P-2) raising an objection that during the pendency of the rent petition, the Cantonment Board Ferozepur had filed a Civil Suit for declaration against Bimla Rani, Mulkh Raj and others to the effect that the sale deed dated 13.07.2009 executed by Bimla Rani in favour of Mulkh Raj and Kamal Kumar was illegal, null and void. This suit was decreed vide judgment and decree dated 14.10.2021 passed by the Court of the Civil Judge (Jr. Division), Ferozepur but the said fact was not disclosed to the High Court in the previous revision petition leading to the passing of the

Rent Controller. This objection petition came to be dismissed by way of the impugned order dated 04.08.2022 leading to the filing of the present revision petition.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner submitted that the decision of the Executing Court, whereby objections filed by the petitioner were dismissed is not sustainable. Learned counsel submitted that once the respondent-decree Holder was not the owner of the shop in dispute, the eviction proceedings instituted by him would not be maintainable.

7. On the other hand learned counsel for the respondent-decree Holder submitted that there is no illegality in the impugned order. Reference was made to the provisions of the Rent Act and it was submitted that it is not essential that a landlord should necessarily be the owner of the property from which he seeks eviction. It was submitted that the petitioner-judgment debtor concealed vital facts from this Court at the time of preliminary hearing and obtained a stay order despite the fact that the Special leave petition preferred by petitioner-judgment debtor against the decision dated 03.12.2021 of this Court in CR No.825 of 2021 had been withdrawn unconditionally by the petitioner-judgment-debtor. Learned counsel submitted that this ground of ownership had been raised before the Hon'ble Apex Court also but subsequently the Special Leave Petition was withdrawn and, therefore, under the circumstances, the petitioner-judgment debtor cannot be permitted to raise this argument again. In support of his contentions, learned counsel for the petitioner relied upon judgments of the Hon'ble Supreme Court in *K.D.Dewan Vs. Harbhajan S. Parhar, (2002) 1 Supreme Court Cases 119, S. Bhaskaran Vs. Sebastian (dead) by Legal representatives, (2019) 9*

Supreme Court Cases 161, Bismillah Be (dead) by Legal Representatives Vs. Majeed Shah, (2017) 2 Supreme Court Cases 274 and Apollo Zipper India Limited Vs. W. Newman and Company Limited, (2018) 6 Supreme Court cases, 744, Ashok Kumar Vs. Piara Singh, 2018 SCC Online P&H 733 and of this High Court in Bharat Bhushan Vs. Kuldeep Kaur (deceased) through her LRs and others, 2022 (1) RCR (Rent) 242 and Satnam Singh Vs. Babu Singh and others 2018(1) RCR (Rent) 635.

8. I have given my thoughtful consideration to the arguments addressed by learned counsel for the parties. The facts are not in dispute. The eviction petition filed by the respondent-decree holder was initially allowed by the Rent Controller vide judgment dated 27.04.2018. In appeal, vide judgment dated 25.02.2021, the decision of the Rent Controller was reversed and the eviction petition was dismissed. In revision, this Court, vide judgment dated 03.12.2021, passed in CR No.825 of 2021 reversed the decision of the First Appellate Court and restored the decision of the Rent Controller vide which eviction of the petitioner-judgment debtor had been ordered. The petitioner-judgment debtor then filed a Special Leave petition before the Hon'ble Apex Court. The same is on record as Annexure R-1 which was subsequently filed by the respondent-decree Holder and was not disclosed or placed on record by the petitioner-judgment debtor. The fact regarding the judgment passed by the Civil Judge (Jr. Division), Ferozepur on 14.10.2021 in Civil Suit No.407 of 2017 vide which the sale deed executed by Bimla Devi in favour of the respondent-decree Holder, Mulkh Raj and Kamal Kumar, was set aside was also referred to in the Special Leave Petition and a question of law in this regard was also framed. The questions of law framed for the consideration of the Hon'ble Apex Court in the Special Leave Petition were as

“2. QUESTION OF LAW:-

The following questions of law arise for consideration by this Hon’ble Court:

- I. Whether as per facts and circumstances of the case, the principle of natural justice does not apply in the present case of the petitioner and the case should not be remand back for proper adjudication by considering the judgment dated 14.10.2021 passed by the Ld. Civil Judge (Jr. Div) Firozpur in CS No.407 of 2017?*
- II. Whether the evidence showing the petitioner in possession of the suit property has been ignored by the courts below? Even, the respondent is neither the owner of the shop nor the landlord of the property.*
- III. Whether the courts below were justified in allowing he revision without considering the judgment dated 14.10.2021 and evidence on record?***
- IV. Whether the judgments and decree passed by the courts below are vitiated and perverse?”*

9. Ground No.1 in the Special Leave Petition was as under:-

“5. GROUNDS:

The Special Leave to Appeal is sought for on the following amongst other grounds:-

- I. Because the impugned judgment passed by the Hon’ble High Court is unsustainable particularly when the respondent did not produce any document in respect of proving the relationship between petitioner and respondent while the petitioner is in possession as per the documentary evidence and caused serious miscarriage of the justice to the petitioner. Even, the respondent is neither the owner of the shop nor the landlord of the property as per the judgment passed by*

the Ld. Civil Judge (Jr. Div) Firozepur on 14.10.2021 in CS No.407 of 2017. The Hon'ble High Court was not justified in allowing the revision filed by the respondent."

10. The Special Leave Petition was withdrawn on 05.05.2022 and the following order was passed by the Hon'ble Apex Court in SLP (C) No. 6825 of 2022:-

"Upon hearing the counsel the Court made the following

ORDER

After some arguments, learned counsel for the petitioner seeks to withdraw the special leave petition unconditionally.

The special leave petition is accordingly dismissed as withdrawn.

Pending application stands disposed of."

11. This fact regarding the Special Leave Petition having been filed before the Hon'ble Apex Court and the same having been withdrawn after addressing arguments and further about the issue of ownership of the shop in dispute having been raised in the said Special Leave Petition was neither disclosed before the Executing Court nor before this Court in the present revision petition. The contention of learned counsel for the petitioner-judgment debtor in the present case at the time of issuance of notice of motion was duly recorded by the Co-ordinate Bench. The order dated 22.08.2022 passed by the Co-ordinate Bench in the present case reads as under:-

"Learned counsel for the petitioner contends that the petitioner-Sukhdev Singh was inducted as tenant by Bimla Rani and later she had sold the property to Mulkh Raj and Kamal Kumar through sale deed bearing Wasika No.2145 dated 13.07.2009 and on the strength of the same, they sought ejectment of the petitioner.

Learned counsel submits that the eviction petition was accepted by Rent Controller vide decision dated 27.04.2018, however, the same was reversed by the Appellate Authority vide judgment

dated 25.02.2021. But in the revision filed by the landlord, the order passed by Rent Controller was restored vide order dated 03.12.2021.

Learned counsel submits that before passing of the order by this Court, the landlord had lost the title of the subject property as in a suit filed by Cantonment Board, Ferozepur, the sale deed dated 13.07.2009 in favour of the decree holder was set aside. He submits that without appreciating the background, much less the loss of right on the part of the decree holder, the Executing Court has dismissed the objections raised by the petitioner-judgment debtor.

Notice of motion for 01.12.2022.

In the meanwhile, the petitioner will not be dispossessed from the premises in dispute.”

12. Even in the present revision petition, there is no reference of the Special Leave Petition having been filed before the Hon'ble Apex Court. It is, therefore, clear that the petitioner-judgment debtor has concealed this very important fact from this Court and initially succeeded in getting an interim order. It is settled law that litigants who, with an intent to deceive and mislead the Court, initiate proceedings without full disclosure of facts and come to the Court with unclean hands, are not entitled to be heard on the merits of the case nor are they entitled to any relief. In the case of ***S.P. Changalvaraya Naidu (dead) by LRs Vs. Jagannath (dead) by LRs, 1994 AIR (SC) 853***, the Hon'ble Apex court held that a person, whose case is based on falsehood, has no right to approach the Court and can be thrown out summarily at any stage of the litigation. It was held that if a litigant withholds some vital document in order to gain advantage on the other side, he would be guilty of playing fraud on the Court as also on the opposite party. In the case of ***Kishore Samrite Vs. State of UP and others, 2013 (2) SCC 398***, the Hon'ble Apex Court laid down as under while dealing with such

litigants:-

“(i) Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the Courts, initiated proceedings without full disclosure of facts and came to the courts with ‘unclean hands’. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor entitled to any relief.

(ii) The people, who approach the Court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

(iii) The obligation to approach the Court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.

(iv) Quests for personal gains have become so intense that those involved in litigation do not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have over-shadowed the old ethos of litigative values for small gains.

(v) A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.

(vi) The Court must ensure that its process is not abused and in order to prevent abuse of the process the court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the Court would be duty bound to impose heavy costs.

(vii) Wherever a public interest is invoked, the Court must examine the petition carefully to ensure that there is genuine public interest involved. The stream of justice should not be allowed to be polluted by unscrupulous litigants.

(viii) The Court, especially the Supreme Court, has to maintain strictest vigilance over the abuse of the process of court and ordinarily meddlesome bystanders should not be granted “visa”. Many societal pollutants create new problems of unredressed grievances and the Court should endure to take cases where the

justice of the lis well-justifies it. 2010(2) SCC 114: 2011(5) RCR (Civil) 386 : 2010(1) RCR (Civil) 842 : 2010(1) Recent Apex Judgment 372, relied.”

13. Taking into consideration the settled law, as referred to above and the fact that the petitioner-judgment debtor concealed these vital facts from this Court, this Court is of the opinion that the petitioner-judgment debtor would be disentitled to any relief. This Court is, therefore, not inclined to go into the merits of the case.

In view of the aforementioned facts and circumstances, I do not find any merit in the present revision petition and the same is accordingly dismissed. On account of the petitioner having approached this Court with unclean hands and on account of his having suppressed vital facts from this Court, exemplary costs of ₹1,00,000/- are imposed upon the petitioner which shall be deposited by the petitioner in the High Court Legal Services Committee within a period of four weeks from today. In case the costs are not deposited, the Member Secretary/Secretary of the High Court Legal Services Committee will take up the matter with the Deputy Commissioner, Ferozepur for recovery of the amount of costs as arrears of land revenue and after recovery of the same, a compliance report shall be submitted to this Court.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on 10.08.2023

Rekha

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