

CR-2969-2021 (O&M)
and other connected case

1

2023:PHHC:141922

129-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.CR-2969-2021 (O&M)

Kundan Lal (deceased) through LRs

....Petitioner

Versus

Trust Bagichi and another

..Respondents

2.CR-2970-2021 (O&M)

Rohtash (deceased) through LRs

....Petitioner

Versus

Trust Bagichi and others

..Respondents

Date of decision: 07.11.2023

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kulbhushan Sharma, Advocate for the petitioner

Mr.Sanjay Mittal, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. With the consent of the learned counsel representing the parties, the two connected revision petitions are being disposed of by a common order.

2. The petitioners herein are the tenants, who have been ordered to be evicted by the appellate authority on the ground of

bona fide requirement and the tenanted building having become unfit and unsafe for human habitation.

3. Heard the learned counsel representing the parties and with their able assistance perused the paperbook and the photocopy of the record produced by the learned counsel representing the parties.

4. Learned counsel representing the petitioner contends that the Rent Controller had ordered dismissal of the eviction petition as the respondents were unable to prove that there was relationship of landlord and tenant between the respondent-Trust and the petitioners. He submits that the predecessor-in-interest of the petitioner in CR-2969-2021 took the premises on rent from the Trust Bagichi situated on Jhajjar Road, Rewari under the management of Sh.Brij Mohan Lal, Sh.Mohan Lal and Sh.Lala Puran Mal. He submits that the present petition has been filed by the Trust Bagichi, which is a registered Trust, created on 30.11.2012. He submits that from the reading of the Trust deed dated 30.11.2012, the property owned and possessed by the previous Trust was never taken over by the new Trust, which was created in 2012. Hence, he submits that there is no relationship of the landlord and tenant between the parties.

5. On the other hand, the learned counsel representing the respondents, while drawing the attention of the Court to para 4(f) of

the petition and para 4(f) of the reply submitted by the tenants, submits that the relationship of the landlord and tenant is not disputed. He further submits that originally the Trust was created by Sh.Brij Mohan, Sh.Mohan Lal and Sh.Lala Puran Mal. After the death of Sh.Brij Mohan and Sh.Mohan Lal, their children alongwith Sh.Puran Mal executed a new Trust deed, which was registered in 2012. He submits that the name of the Trust is same and the property of the Trust is being managed by the members of new Trust. He further submits that the petitioners have been paying rent to the Trust through Sh.Radhey Shyam Gupta, who is son of Sh.Brij Mohan Gupta.

6. This Court has considered the submissions made by the learned counsel representing the parties. Section 3 of the Trust Act, 1882, defines ‘Trust’ in the following manner:-

3. Interpretation Clause-”Trust”-A
“trust” is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner;

the person who reposes or declares the confidence is called the “author of the trust”; the person who accepts the confidence is called the “trustee”; the person for whose benefit the confidence is accepted is called the “beneficiary”; the subject-matter of the trust is called “trust-property” or “trust money”; the “beneficial interest” or “interest” of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the “instrument of trust”;

a breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a “breach of trust”;

and in this Act, unless there be something repugnant in the subject or context, “registered” means registered under the law for the registration of documents for the time being in force; a person is said to have “notice” of a fact either when he actually knows that fact, or when, but for wilful abstention from inquiry or gross negligence, he would have known it, or when information of the fact is given to or obtained by his agent, under the circumstances mentioned in the Indian Contract Act, 1872, Section 229; and all expressions used herein and defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively attributed to them by that Act.

7. It is evident that the Trust is an obligation annexed to the ownership of the property. Basically, Trusts are of two types; Private Trusts and Public Trusts. The petitioners have not produced the previous Trust deed, which existed before 2012. Moreover, the petitioners have admitted the relationship of the landlord and the tenant between the parties. The Rent Controller is a Tribunal of limited jurisdiction, which is required to examine as to whether the tenant is liable to be ejected on the grounds specified under the Haryana Urban (Control of Rent and Eviction) Act, 1973. The Rent Controller is not expected to finally decide upon the question of title which lies within the jurisdiction of civil court. In this case, a new trust deed has been executed while permitting the children of the previous trustees, who have died to take over the management of the

Trust. The name of the Trust is still kept the same. The tenants have not placed any material on record to prove that there are two separate Trusts. The Trust property is also common.

8. At this stage, the learned counsel representing the petitioner contends that the rent receipts were issued by Sh.Radhey Shyam Gupta before 2012. He submits that the petitioners have not paid any rent after the Trust deed was registered.

9. The aforesaid argument has no substance. As already noticed, the petitioners have not produced any material to prove that two separate independent Trusts have been created. Once some of the previous trustees have died, their children alongwith one of the original trustees have re-constituted the Trust and executed a new Trust deed in 2012 which essentially does not result in creation of any new Trust.

10. Learned counsel representing the petitioner did not press any other arguments. Hence, no ground to interfere is made out.

11. Dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

07.11.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE