

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-5667-2023 (O&M)
Date of Decision : 03.10.2023

Gopal Dass

.....Petitioner

Versus

Gulzar Kaur (deceased) through her LR and anotherRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Vishnu Dutt, Advocate with
Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Navneet Jindal, Advocate
for respondent No.1/caveator.

NAMIT KUMAR, J. (ORAL)

CM-17776-CII-2023

Prayer in the instant application filed under Section 151 of CPC is for seeking exemption from filing certified/typed copies of impugned order dated 22.08.2022 passed by learned Rent Controller, Ludhiana, grounds of appeal filed before learned Appellate Court and impugned judgment dated 08.08.2023 passed by learned Appellate Authority, Ludhiana.

Allowed as prayed for subject to all just exceptions.

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1. The instant revision petition has been preferred by the petitioner impugning the order dated 22.08.2022 passed in Rent Petition No.645 of 2016 titled as 'Gulzar Kaur Vs. Gopal Dass' whereby learned Rent Controller, Ludhiana has passed the ejectment order and directed the petitioner/tenant to hand over the vacant possession of demised

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premises to respondent No.1-Gulzar Kaur/landlord and order dated 08.08.2023 passed by learned Appellate Authority, Ludhiana in Rent Appeal No.91 of 2022 whereby an appeal filed by the petitioner against order dated 22.08.2022 has been dismissed.

2. The brief facts leading to the filing of the present petition as has been narrated in the petition are that out of the two shops, one shop was taken on rent by the petitioner and another shop was taken on rent by his brother Vijay Kumar (respondent No.2) from its original owner Harnam Singh about 30 years back. The petitioner is running his work in the tenancy premises under the name and style of M/s Kanwal Motors whereas respondent No.2-Vijay Kumar running his work in tenancy premises under the name and style of M/s Bittu Auto Centre. Earlier, the rent was being received by its original owner Harnam Singh and after his death, the same was being collected by Kulwant Kaur widow of Harnam Singh and after the death of Kulwant Kaur, Prithipal Singh s/o Harnam Singh and Kulwant Kaur started collecting rent from him. Prithpal Singh died in the year 2014 and after his death, respondent No.1, widow of Prithipal Singh, started claiming herself to be the exclusive owner of the property in question. There was a dispute between respondent No.1-Gulzar Kaur and Manjit Kaur regarding the property in question. Respondent No.1-Gulzar Kaur (since deceased) has filed an ejectment petition alleging that petitioner-Gopal Dass, who was a tenant of both the shops on a monthly rent of Rs.2660/- per month, had not tendered arrears of rent since July, 2014 @ Rs.2660/- per month and shop in dispute is also urgently and bonafidely required

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by her for her own use and occupation as she wants to reconstruct/renovate the shops into a big showroom of wholesale and retail cloth business. Upon notice petitioner-Gopal Dass has filed preliminary objections regarding maintainability, suppression of material facts and bad for non-joinder of necessary parties. It was also denied that the shops in dispute are urgently and bonafidely required by respondent No.1 for her personal use and occupation. The son of respondent No.1 had sent an email to the police against the petitioner in which he had admitted that after getting the property vacated from the respondent and other tenants, respondent No.1 intends to sell the property. After hearing both the parties, learned Rent Controller, Ludhiana vide impugned order dated 22.08.2022 allowed the ejectment petition filed by respondent No.1 on the ground of bonafide necessity and directed the petitioner/tenant to vacate the demised premises and handover the vacant possession of the same to respondent No.1 within a period of 02 months. The said order was challenged vide two separate appeals, one filed by petitioner-Gopal Dass and second filed by his brother-Vijay Kumar before the Appellate Authority, Ludhiana which were dismissed vide judgment dated 08.08.2023.

3. Aggrieved against the order dated 08.08.2023 passed by learned Appellate Authority, Ludhiana and order dated 22.08.2022 passed by learned Rent Controller, Ludhiana, the petitioner has preferred the instant revision petition.

4. Learned counsel for the petitioner has contended that respondent No.1-Gulzar Kaur is not exclusive and absolute owner of the

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entire property and she has failed to produce any document of ownership of the premises in question. He further submits that respondent No.1 has also failed to prove that she requires the shops in question for bonafide personal use and occupation. The Appellate Authority, Ludhiana has dismissed the appeal filed by the petitioner without considering the facts and circumstances of the present case. Therefore, the present revision petition may be allowed and impugned orders may be set aside.

5. On the other hand, learned counsel for respondent No.1/caveator has vehemently opposed the instant revision petition.

6. I have heard learned counsel for the parties and perused the relevant documents.

7. So far as the contention of learned counsel for the petitioner regarding respondent No.1-Gulzar Kaur is not exclusive and absolute owner of the property is concerned, the petitioner himself admitted in his cross-examination conducted before the Rent Controller, Ludhiana that he took both the shops on rent in the year 1976 and when he has taken both the shops on rent then he was having cordial relation with respondent No.1-Gulzar Kaur. He has been paying the rent of both the shops in cash. The electricity charges and water supply charges were extra from the rent. He further admitted that respondent No.1-Gulzar Kaur filed the petition in the year 2016 in respect of two shops. He used to pay/handover the rent to every 4th day of the month to respondent No.1-Gulzar Kaur and amount of rent was 500/- per month. He further admitted that it is correct that both the shops having rent 1000/- rupees

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in total. He was not have any passage in between both the shops. Thereafter, he had tendered the rent in the Court as per the assessment order of the Court.

8. Moreover, respondent No.2-Vijay Kumar, who is brother of petitioner, has already filed revision petition bearing C.R. No.4960 of 2023 titled as ‘Vijay Kumar Vs. Gulzar Kaur (deceased) through her LR and others’ against the order dated 22.08.2022 passed by the Rent Controller, Ludhiana and order dated 08.08.2023 passed by learned Appellate Authority, Ludhiana claiming third party rights which was dismissed on merits vide order dated 31.08.2023 passed by this Court. Now, the petitioner has filed the present revision petition impugning the aforesaid orders passed by the Rent Controller, Ludhiana and learned Appellate Authority, Ludhiana, respectively, raising the similar issues which clearly shows that the petitioner in connivance with respondent No.2-Vijay Kumar has filed the present petition with the sole intent to abuse the process of law and just to delay the process of warrants of possession against him. As such, no interference is required by this Court in the present revision petition filed by the petitioner which is based on identical and similar facts and circumstances.

9. In view of above, finding no merit in the instant revision petition, the same is consequently, dismissed.

03.10.2023

(NAMIT KUMAR)
JUDGE

Kothiylal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No