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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1154-2023 (O&M)
Decided on:-18.10.2023

Balwant Ram (deceased) thr. his LRs
vs.

....Petitioner.

Vinod Kumar

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mrs. Rupinder Kaur Thind, Advocate with
Mr. Bikramjit Singh, Advocate,
for the petitioner.

Mr. Harshit Jain, Advocate,
for the respondent.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to the judgments dated 29.01.2018 and 14.09.2022 passed by the Courts below, whereby, an eviction petition filed at the instance of respondent-landlord, was allowed.

2. Briefly stating, claiming himself to be owner, on the basis of registered gift deed No.4101 dated 01.02.2005, executed by his father-Satpal, respondent-landlord filed an eviction petition against the petitioner-tenant from a residential portion, situated in Ward No.5, Park Road Dhuri (as detailed in head note of the eviction petition), while submitting that he was in arrears of rent w.e.f. 01.01.2011 till the date of filing the eviction petition, i.e. Rs.100/- per month. It was also pleaded that the respondent-landlord required the premises in question for personal necessity, as one of

his sons, namely, Harshit Jain was married and blessed with a daughter, whereas, the other son, namely, Gopal Jain being of marriageable age, there was shortage of residential accommodation for the family.

3. On the other hand, petitioner-tenant appeared and filed a detailed written statement controverting the ownership of respondent-landlord over the property in question, besides even disputing the factum of tenant-landlord relationship between the parties and thus, pleaded that the eviction petition was liable to be dismissed.

4. The Rent Controller vide judgment dated 29.01.2018, allowed the eviction petition filed at the instance of respondent-landlord. Aggrieved thereof, appeal was filed at the instance of petitioner-tenant, however, the same was dismissed by the Appellate Authority vide judgment dated 14.09.2022.

5. Impugning the aforementioned judgments passed by the Courts below, learned counsel for the petitioner-tenant submits that there were serious discrepancies in the judgments passed by the authorities below as the respondent-landlord failed to prove his title over the property in question, besides even failed to establish the landlord-tenant relationship. She further submits that the only documents placed on record as regards the ownership over the suit property are the house tax register entries, the judgment and decree dated 13.11.1972 (Ex.A-6 and Ex.A-7) as well as the registered Gift Deed dated 01.02.2005, which could not establish title in favour of respondent-landlord.

Learned counsel also submits that besides the gift deed, none of the other documents were ever pleaded in the eviction petition and thus, the

same could not have been relied upon as piece of evidence in support of case set up by the respondent-landlord qua his ownership. She further submits that perusal of eviction petition, besides other documents placed on record were not sufficient to establish the identity of the property in question. While referring to an order dated 07.04.2015 passed by the Rent Controller upon an application under Order 11 Rule 14 CPC, wherein the respondent-landlord failed to produce documents regarding his title, learned counsel submits that the respondent-landlord was debarred from producing or proving the documents in support of his ownership over the property in question, without seeking prior permission from the Rent Controller, which was never done and thus, no such documents could have been considered. She further points out that while appearing as witness (AW-2), the respondent-landlord himself admitted in the cross-examination that he was not in a position to produce any document pertaining to the title of his father/grandfather over the property in question.

In support of her aforesaid submissions, learned counsel for the petitioner placed reliance upon judgments of this Court in cases of ***“Mohinder Singh vs. Ram Nath”*** 1985(1) RCR (Rent) 642, ***“Om Parkash son of Sh. Daulat Ram vs. Om Parkash son of Bhag Mal”*** 2015(2) RCR (Rent) 318, ***“Kulwinder Kumar vs. Guru Ravidass Welfare Society, Paragpur”*** as well as judgment of Rajasthan High Court in case ***“Shankar Lal Chaurasiya vs. Mohan Lal”***, 2015(1) RCR (Rent) 255.

6. On the other hand, learned counsel representing respondent-landlord submits that the property in question was gifted in favour of respondent-landlord by his father, namely, Satpal vide gift deed No.4101

dated 01.02.2005. While relying upon the judgment and decree dated 13.11.1972 (Ex. A-6 and Ex.A-7), he points out that the demised premises was inherited by Piara Lal and Tek Chand, who happened to be father and uncle of Satpal, who succeeded them. Placing reliance upon the assessment register (Form TS-I), he further points out that House Nos.52 and 53 were recorded to be in the ownership of Bakhtori Mal, who was the father of Piara Lal and Tek Chand and thus, the chain of ownership of the property in question devolving from Bakhtori Mal to respondent-landlord was established.

As regards the identity of the tenanted premises, learned counsel for the respondent-landlord points out to the cross-examination of petitioner-Balwant Ram, who while appearing as RW-1, admits that on one side of the demised premises, property of Brij Lal s/o of Gopi Ram was situated and fact when compared with the assessment register (form TS-1) wherein, Bakhtori Mal was recorded as owner qua two properties, one being occupied by the same Brij Lal s/o Gopi Ram, established the same.

7. I have heard learned counsel for the parties and gone through the paper-book as well as lower courts record. I am unable to find substance in the submissions made on behalf of the petitioner-tenant.

8. In the present case, eviction petition was filed on behalf of respondent-landlord by claiming himself to be owner/landlord qua the demised premises, by virtue of registered gift deed dated 01.02.2005. As no particulars/details about the ownership of his predecessors were mentioned in the eviction petition, an application for production of the necessary documents in this regard was filed before the Rent Controller, at the instance

of petitioner-tenant, while invoking Order 11 Rule 12 and 14 CPC, which came to be dismissed vide order dated 07.04.2015 with the following relevant observations:-

“Thus, the instant application is disposed of with the directions that the petitioner who has not mentioned details and has not produced any document of tenancy or proof of ownership of Satpal over the disputed property, shall be barred to place reliance of any such documents during subsequent proceedings in this case. However, the petitioner if seeks to place on record the alleged sale deed in favour of Satpal would seek prior permission to the court to place the same by a specific application seeking permission of the court and subject to decision of the application.”

A perusal of the above, shows that on account of failure to produce the necessary documents of ownership of Satpal, at the initial stage, the respondent-landlord was debarred from placing reliance upon any such document at a later stage of proceedings in the eviction petition, except with the prior permission of the Court below. Although, respondent-landlord proved the assessment register (Ex.A5), the judgment and decree dated 13.11.1972 (Ex. A-6 and Ex. A-7) to establish the chain of inheritance from Bhakhtori Mal to the present respondent-landlord and the same were even admitted in evidence by the Rent Controller, however, no prior permission of the Rent Controller was obtained in this regard. Having noticed that, still, for this reason, documentary evidence having been brought on record at the instance of respondent-landlord could not have been discarded, especially, in view of the fact that no specific and categorical objection about its production and admission, for want of requirement/compliance of liberty provided

under order dated 07.04.2015 was either prayed for or granted in favour of respondent-landlord by the Rent Controller. Importantly, had an objection been taken from the side of petitioner-tenant, at the time of admission of the aforementioned documentary evidence qua the title over the property in question the respondent-landlord, would have sought necessary permission from the Rent Controller in the wake of liberty granted to him in the aforesaid order dated 07.04.2015. In fact, in the present circumstances, the petitioner-tenant waived off his right of raising any such objection at the stage of revisional jurisdiction before this Court. It may also be pointed out here that the order dated 07.04.2015 was never assailed at the instance of respondent-landlord, however, the observations made therein by the Rent Controller at the very initial stage of eviction proceedings of denying the respondent-landlord his right to establish his title during the trial except after obtaining permission from the Rent Controller, was wholly unwarranted. A perusal of lower Court record shows that no objection was ever raised by the Rent Controller even while exhibiting the aforementioned documents.

9. As regards the ownership of the property in question, the same has been duly established in favour of respondent-landlord. From the detailed analysis of the document available on record, in the shape of assessment register (Ex.A5 i.e. Form TS-I), besides judgment and decree dated 13.11.1972 (Ex. A-6 and Ex. A-7) and also the gift deed dated 01.02.2005 (Ex.P3), the necessary chain of inheritance qua the property in question devolving from Bakhtori Mal to Piare Lal and then to Satpal and finally to the respondent-landlord has been sufficiently established. Moreover, in the eviction proceedings only prima facie title needs to be established, which

has been sufficiently done in the facts of the present case. The house tax entries may not conclusively confer title, yet, raise presumption. Equally important, the registered gift deed dated 01.02.2015 in favour of respondent-landlord also prima facie proves title in his favour and was rightly relied upon by the Courts below in their limited jurisdiction to adjudicate upon title under Rent Act, especially, the same not been assailed at the instance of petitioner-tenant by having filed any independent suit for declaration of title in his favour. On the contrary, the petitioner-tenant could have questioned the bonafides of the transaction (gift deed) but no such plea was ever raised or pressed.

10. On the point of identity of the tenanted premises, the same has been evidently established on record upon a conjoint reading of the cross-examination of RW-1-Balwant Ram i.e. the petitioner himself and the assessment register (form TS-I) which duly corroborate that the demised property i.e. situated abutting the portion owned by Bakhtori Mal and occupied by Brij Lal son of Gopi Ram. Besides it, even a concurrent finding of fact has been recorded by the authorities below as regards the ownership of the property in question in favour of the respondent-landlord, besides even the relationship of landlord-tenant between the parties to the lis as well as the identity of the demised premises, which in the humble opinion of this Court, cannot be interfered with in the limited revisional jurisdiction of this Court in exercise of powers under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949, especially, when the petitioner-tenant has not been able to establish any other independent right or capacity under which he has been occupying the property in question. Besides, the judgments

relied upon by the learned counsel representing the petitioner-tenant are clearly distinguishable on facts and are thus not applicable to the case in hand.

11. As regards the bonafide necessity of respondent-landlord, the same has been sufficiently proved on record. The respondent-landlord having two sons, out of whom, elder one namely, Harshit Jain being married and blessed with daughter besides, the younger one, namely, Gopal Jain of marriageable age, respondent-landlord facing shortage of residential accommodation, the findings as regards his bonafide necessity qua the tenanted premises so as to fulfil his need of sufficient residential accommodation by carrying out necessary changes therein, thus, warrants no interference in the facts and circumstances of the present case.

12. In view of the discussion made herein-above, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below, there being no overlooking of the material available on record, re-appreciation of pleadings and the evidence being impermissible, the present petition being devoid of merits is thus dismissed.

13. Pending application, if any, stands disposed of.

18.10.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No