

CR-1443-2009 (O&M)

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2024:PHHC:030469

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

CR-1443-2009 (O&M)

Date of decision: 26.02.2024

Hari Ram

....Petitioner

Versus

Balbir Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajinder Goel, Advocate for the petitioner

Mr. Aakash Singla and

Ms. Vaishali Singla, Advocates for the respondent

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein is a tenant who has been ordered to be evicted by the appellate authority on the ground of bonafide necessity of the landlord. The eviction of the petitioner was sought on the ground of non-payment of rent, misuse of the premises, which has resulted in diminishing the value of the premises and bonafide necessity of the landlord. The petitioner denied the relationship. He submitted that the respondent is neither the owner nor the landlord of the premises and the entire building has been constructed by the petitioner. The Rent Controller dismissed the eviction petition. The appellate authority in an appeal filed by the respondent remanded the case back to the trial court for a fresh decision. In the High Court the remand order was set aside and the appellate authority was permitted to seek report from the court of the Rent Controller on receipt of the report, the appellate authority on the basis of this report ordered eviction of the petitioner.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook, alongwith photocopy of the record, which was furnished by the learned counsel representing the parties.

3. Learned counsel representing the petitioner submits that the appellate authority has erred in recording the finding on the basis of the document Ex.PW8/A, which was allegedly submitted by the petitioner to the President of the Municipal Committee, Hisar, admitting the tenancy under the respondent. He submits that this document has never been confronted to the petitioner. He further submits that the respondent has not produced any evidence to prove his ownership as well as relationship.

4. On the other hand, the learned counsel representing the respondent while referring to jamabandi Ex.P-26, site plan Ex.P-24, an application submitted by the petitioner Ex.PW8/A and the site plan filed by the petitioner Ex.R-1 and the photographs produced on file submits the ownership of the landlord is proved, the petitioner has admitted that he is in possession as a tenant under the respondents and the various rooms, including the room in question are part and parcel of the same building. The petitioner has also failed to prove any right, title or interest in the property except tenancy. He submits that the petitioner was granted opportunity to lead counter evidence before the Rent Controller, however, his counsel made a statement that no evidence is required to be led. He further submits that before the Appellate authority once again opportunity was given to the petitioner, however, on

07.01.2009, he recorded the statement to the effect that he does not wish to lead any evidence.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. The civil proceedings are required to be decided on preponderance of the evidence. In this case the respondent in order to prove his case has produced copy of the jamabandi for the year 1993-94 to prove that he is one of the co-owners. He has produced municipal record to prove that he is the owner thereof. Furthermore, he has produced layout plan Ex.P-24 to prove that the entire building consisting of as many as 7 rooms is part and parcel of the same building. The petitioner is in possession of room no.2, which is located in between room no.1 and 6. It is also evident that the petitioner has been granted two opportunities one by the Rent Controller and second by the appellate authority to rebut the evidence produced in additional evidence by the respondent. However, he failed to lead evidence. Ex.PW8/A which was subsequently marked as Ex.PW10/A by the appellate authority is an application submitted by the petitioner to the President of the Municipal Committee, Hisar on 01.03.2003 admitting that he is in possession of two rooms as tenant under the respondent Balbir Singh. Thereafter, the burden to rebut the same was shifted upon the petitioner. However, as already noticed, despite two opportunities, he has failed to lead any evidence to rebut the same.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Dismissed.
9. All the pending miscellaneous applications, if any, are also disposed of.

26.02.2024
rekha

(ANIL KSHETARPAL)
JUDGE

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