



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

101

CR No.3822 of 1995

Reserved on : 21.05.2024

Date of Decision : 31.05.2024

Har Kishore (since deceased) through LRs

....Petitioners

VERSUS

Mandir Pala Mal Gobind Ram and Others

....Respondents

101-1

CR No.3823 of 1995

Har Kishore (since deceased) through LRs

....Petitioners

VERSUS

Mandir Pala Mal Gobind Ram and Others

....Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Dinesh Nagar, Advocate
for the petitioners in both the petitions.

Mr. Bhavnik Mehta, Advocate
for the respondents in both the petitions.

ALKA SARIN, J.

1. This common order will dispose off both the above-captioned revision petitions being CR-3822-1995 and CR-3823-1995 which have been preferred by the tenant-petitioner challenging the orders dated 04.10.1993 and 11.09.1995 passed by the Rent Controller and Appellate Authority respectively.
2. In brief, the facts relevant to the present *lis* are that an ejectment petition was filed by the landlord-respondents (Mandir Pala Mal Gobind Ram and others) against the tenant-petitioner averring therein that the



property was leased out to the tenant-petitioner through Gobind Ram on 07.05.1974 @ Rs.20/- per month. Gobind Ram expired on 13.01.1990. On the basis of a Will dated 07.11.1989 executed by Gobind Ram in favour of Radha Kant and others, they stepped into the shoes of Gobind Ram and, therefore, there existed the relationship of landlord and tenant between the parties. The eviction of the tenant-petitioner was sought on the grounds of arrears of rent since 01.07.1980; ceased to occupy the demised shops; and that the demised shops had become unfit and unsafe for human habitation. The tenant-petitioner contested the ejectment petition and admitted that he was tenant in the demised shops @ Rs.20/- per month. He did not specifically deny that he had taken the demised shops on rent from Mandir Pala Mal Gobind Ram through Gobind Ram, however, the Will executed by Gobind Ram was disputed by the tenant-petitioner. It was further the plea taken that the demised shops were owned by Idol installed in the Mandir and that the ejectment petition could not have been filed, therefore, denying the relationship of landlord and tenant. It was further the plea that the dispute was such that it could not be decided by the Civil Court. Replication was filed wherein it was stated that earlier also a petition had been filed by Mandir Pala Mal Gobind Ram and that the tenant-petitioner herein had admitted the relationship of landlord and tenant and that now he was estopped from taking up a new stand.

3. On the basis of pleadings of the parties the following issues were framed :

1. Whether there is relationship of landlord and tenant from the shop in dispute on the ground of non-payment of arrears of rent etc. as alleged ? OPA



2. Whether the respondent is liable to be ejected from the shop in dispute on the ground of non-payment of arrears of rent etc. as alleged ? OPA
3. Whether the respondent has ceased to occupy the premises in dispute ? If so, its effect ? OPA
4. Whether the premises in dispute is unsafe and unfit for human habitation ? OPA
5. Relief.

4. The Rent Controller vide order dated 04.10.1993 held the tenant-petitioner liable for ejectment on the ground of arrears of rent. Aggrieved by the same, an appeal was preferred. Though, a single appeal was preferred by the tenant-petitioner before the Appellate Authority, however, two revision petitions have been preferred challenging the orders passed by the Rent Controller and the Appellate Authority since there are two shops in dispute.

5. Learned counsel for the tenant-petitioner would contend that the tenant-petitioner is tenant in the demised shops and had subsequently deposited the rent assessed and hence the ejectment order was bad in law. It is further the contention that even if the tender is not taken to be a correct tender, the Rent Controller ought to have given one opportunity to the tenant-petitioner to deposit the arrears of rent.

6. *Per contra* learned counsel for the landlord-respondents would contend that once the relationship of landlord and tenant is denied and the petition is on the ground of arrears of rent and that once the tenant is unable to prove his contention, the tenant cannot be given another opportunity to tender the rent. In support of his arguments he has relied upon judgments of



this Court in the cases of **Hukma Devi vs. Bhagwan Dass [2003(1) RCR (Rent) 533]**, **Jagdish Singh vs. Mohan Lal [2004(2) RCR (Rent) 114]**, **Yashpal Singla vs. Vijay Kumar [2004(1) RCR (Rent) 718]** and **Baseshar Nath Trust vs. Kripo Devi & Ors. [2010(2) RCR (Rent) 343]**.

7. Heard counsel for the parties.

8. In the present case the relationship of landlord and tenant was denied by the tenant-petitioner herein. Both the Authorities concurrently found that the relationship stood proved. The tenant-petitioner had himself admitted in his written statement that the shop was taken on rent from Mandir Pala Mal Gobind Ram @ Rs.20/- per month. Infact, no argument has been addressed by learned counsel for the tenant-petitioner qua the relationship of landlord and tenant. The only argument addressed by learned counsel for the tenant-petitioner is that an opportunity ought to have been given to tender the rent.

9. In the case of **Hukma Devi** (supra) it has been held as under :

“14. A perusal of afore-mentioned provision shows that there is a presumption of relationship of landlord and tenant which is implicit in Section 13(2). Therefore, an unscrupulous tenant like the petitioner cannot first be permitted to take the stand that he is not the tenant under the landlord and then to claim that he is a tenant but he should be permitted to deposit the assessed arrears of rent. If such an interpretation is given to Section 13(2) than many tenants may take the stand that there is no relationship of landlord and tenant. In such a case a tenant would successfully delay the payment of



rent. Therefore, there cannot be any obligation on the Rent Controller to make an assessment about the arrears of rent once such a stand has been taken by the tenant. The object of making assessment of the arrears of rent, interest and cost by the landlord is that in case there is a dispute with regard to rate of rent or the period of rent, house tax, cost and interest etc. then he may not suffer because of short tender. But in a case where the tenant refuses the liability to pay the rent, the question of assessment would not at all arise. For the afore-mentioned proposition, reliance can be placed on the judgment of the Supreme Court in Sheela v. Firm Prahalad Rai Prem Prakash, (2002 (1) RCR (Rent) 351 (SC) : (2002) 3 SCC 375). The Supreme Court considered the provisions of Section 111(g) of the Transfer of Property Act, 1882 read with Section 116 of the Evidence Act, 1872 for the purpose of finding out whether the right of a landlord could be adversely affected under Section 12 of the M.P. Accommodation Control Act, 1961. Holding that a disclaimer by the tenant would affect adversely and substantially the interest of the landlord. Their Lordships observed as under :

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15. The protection of rent laws has also been denied to a tenant who has denied relationship of landlord and



tenant because such a tenant can never be considered to have claimed protection of the rent laws. This proposition has been laid down in the case of Sultan v. Ganesh, 1988(1) RCR (Rent) 195 (SC) : (1988) 1 SCC 664. Similar view appears to have been taken in the case of Sankaran Pillai v. V.P. Venuguduswami, 1999(2) RCR (Rent) 173 (SC) : (1999) 6 SCC 396.”

In the case of **Jagdish Singh** (supra) it has been held as under :

“10. Learned counsel for the respondent on the other hand has relied upon a judgment of this Court in Hukma Devi v. Bhagwan Dass, 2003 (1) R.L.R. 528 : 2003(1) RCR (Rent) 533 (P&H), wherein it has been held that the ratio of said judgment is applicable only in the eventuality of bona fide dispute regarding either rate of rent or the period but where the tenant has denied the relationship of landlord and tenant between the parties, the benefit of providing another opportunity to the tenant to tender the rent is not available.”

Further, in the case of **Yashpal Singla** (supra) this Court held as under :

“7. Once the tenant has denied the relationship of landlord and tenant, then there would be hardly any justification for the Rent Controller to frame an assessment order in pursuance to the provisions of proviso of Section 13(2)(1) of the Act as interpreted by the Supreme Court in the case of Rakesh Wadhawan (supra). After the evidence has been led by the landlord



showing the relationship of landlord-tenant, then there would be no justification to permit the tenant to deposit the arrears of rent in accordance with the interim assessment order of rent. Such an approach would create imbalance of equities and would hardly be justified. Therefore, I have no hesitation in rejecting the argument raised by the learned counsel and reiterate my view taken in the cases of Ramanand Shastri (supra) and Hukama Devi (supra).”

It has further been held by this Court in the case of **Baseshar Nath Trust** (supra) as under :

“11. From the above cited judgments, it is clear that issue raised in this petition is no more res integra. It is now settled view as per above dictum that if tenant is denying relationship of landlord-tenant between the parties, then there is no question of granting any opportunity to the tenant to deposit the amount.

12. In view of the settled principle of law as observed above, in the opinion of this Court, Learned Appellate Court was not within its jurisdiction while permitting the appellant-tenant to tender the entire amount and to give the benefit to the tenant. Judgment impugned herein does not stand in the scrutiny of law.”

10. Once a tenant denies the very relationship of landlord and tenant, the question of granting another opportunity to the tenant to deposit the amount of arrears would not arise. In the present case the tenant-



petitioner herein denied the relationship of the landlord and tenant and having failed to substantiate the claim raised in the written statement the tenant-petitioner cannot now state that an opportunity ought to have been granted to him to tender the arrears of rent.

11. In view of the above, I do not find any merit in the present revision petitions. The same being devoid of any merit are accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

31.05.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO