

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CR-8123-2017 (O&M)
Date of decision: 23.04.2024

BHARAT PETROLEUM CORPORATION LTD AND ANR
..Petitioners
Versus

RAJINDER SINGH AND ORS
..Respondents

2. CR-8859-2017 (O&M)

HARMEET SINGH
..Petitioner
Versus

RAJINDER SINGH AND ORS
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raman Sharma, Advocate
for the petitioner (in CR-8123-2017).

Mr. Baltej Singh Sidhu, Sr. Advocate
with Mr. Chandan Singh, Advocate
and Mr. Gurpreet S. Brar, Advocate
for petitioner (in CR-8859-2017).

Mr. Piyushkant Jain, Advocate
and Ms. Komaljit Kaur, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. These two connected civil revision petitions have been filed by the tenant and licensor under the tenant to challenge the correctness of eviction order passed by the Rent Controller, which in appeal has been affirmed by the Appellate Authority. Sewak Bus and Transport Company Pvt. Ltd. was the owner of the commercial plot, which was leased out to

Bharat Petroleum Corporation Ltd. on 30.06.1988. The contractual period of tenancy came to an end on 30.06.1998. In the beginning, Sewak Bus and Transport Company Pvt. Ltd. filed petition seeking ejectment of the petitioner on the ground of non-payment of rent and the petitioner has sublet the premises to its dealer, which was dismissed on 06.11.2003. In the meantime, by virtue of as many as six sale deeds, Sewak Bus and Transport Company Pvt. Ltd. sold the property to the respondent namely Sh. Rajinder Singh, who filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 on 25.03.2009, claiming that he requires the premises for his bonafide necessity as he wants to open office of the finance company and tyre shop-cum-residence for his son. He also claims that the tenant is liable to be evicted on account of non-payment of rent with effect from 01.06.1999.

2. The petitioner denied the relationship of landlord and tenant on the ground that Sh. J.P. Jhanji has filed a suit to challenge the sale deeds and previous petition filed by the owner has been dismissed. It was claimed that the rent stands paid and the landlord did not have bonafide requirement.

3. Both the Courts allowed the petition while ordering ejectment.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. The learned counsel representing the petitioner in CR-8123-2017, contends that there is a cloud on the respondents' title because the sale deed in their favour is subject matter of challenge in a separate suit filed by Sh. J.P. Jhanji. He submits that the sale deed has been executed during the pendency of stay and therefore, the sale deeds are void and he is entitled to

challenge the landlord's derivative title in this petition. He relies upon the judgment passed in **Bismillah Be (dead) through LRs Vs. Majeed Shah, 2017 AIR (SC) 206** and a Single Bench judgment of the Andhra Pradesh High Court in **M. Sarojini Devi (died) through LRs and others Vs. Jugal Kishore Sanghi, 2011 (45) R.C.R. (Civil) 853.**

6. He further contends that the respondent's son is a partner in two firms and therefore, he is not dependant upon the respondent. Sh. Baltej Singh Sidhu, learned Senior counsel representing licensee from Bharat Petroleum Corporation Ltd. submits that the respondent purchased the property with open eyes. On the date of the sale, it was known to the respondent that a fuel station is running. Hence, the ground of bonafide necessity is not available to him.

7. Per contra, the learned counsel representing the respondent No.1 submits that even if the petitioner is permitted to challenge the derivative title, still, he has failed to make out a case with regard to the defect in title. He submits that as many as six sale deeds have been executed by the Sewak Bus and Transport Company Pvt. Ltd. in favour of Sh. Rajinder Singh, which have not been set aside by any Court of law. He further submits that a plaint filed by Sh. J.P. Jhanji was rejected under Order VII Rule 11 of the Code of Civil Procedure, 1908, against which an appeal is pending.

8. This Court has considered the submissions of the learned counsel representing the parties.

9. It may be noted here that the judgment passed in **Bismillah Be's case (supra)** lays down that the tenant is entitled to question the derivative title of landlord (lessor), unless, the lessee has attorned in favour of

transferee/vendee. However, in this case, the petitioner has failed to prove that there is any defect in the sale deeds executed by the Sewak Bus and Transport Company Pvt. Ltd. The learned counsel representing the petitioner submits that these sale deeds were executed during the pendency of interim order passed by the Civil Court. He refers to the entries in the revenue record dated 06.10.1993 and 27.11.1997. The petitioner has not produced the primary evidence i.e. the injunction order. The entry in the revenue record would not prove that there was any absolute stay restraint on the owner to alienate its property. Moreover, the life of injunction order comes to an end with the decision of the suit. Even, if the sale deed has been executed in violation of the injunction, it may lead to punishment, however, it does not affect the validity of the sale deed. This issue has already been examined in detail by this Court in **CR-4248-2018 and other connected case titled as Mam Kaur Vs. Daya Ram and another, decided on 26.09.2023.**

10. The second argument of the learned counsel representing the Company lacks substance because the parents fill that it is their responsibility to settle their children. In that process, if the landlord seeks eviction for requirement of his son, there is no illegality. In any case, the respondent Sh. Rajinder Singh has also sought eviction for his own necessity.

11. Similarly, the argument of Sh. Baltej Singh Sidhu, learned Senior counsel representing the petitioner in CR-8859-2017, has no substance because the sale deeds are between 08.05.1997 to 24.05.1999, whereas, the ejectment petition was filed after a passage of 10 years i.e. in

the year 2009. Ten years is a long period, in which the requirement of the parties change.

12. Keeping in view the aforesaid discussion, no ground to interfere is made out.

13. Consequently, both the petitions are dismissed accordingly.

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

April 23rd, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No