

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

CR-1040-2019 (O&M)
Date of Decision:-13.02.2024

Vickey Khullar

... Petitioner(s)

Versus

Ramesh Chander

... Respondent(s)

-.-

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Aayush Gupta, Advocate
for the petitioner(s).

Ms. Puja Chopra, Advocate
for the respondent(s).

RITU TAGORE, J. (Oral)

1. This revision petition is directed against the order dated 04.01.2019, passed by learned Rent Controller, Ludhiana in Rent Petition No.03 of 11.01.2017, whereby the application filed by the petitioner (tenant) under Order 7 Rule 11 CPC read with Section 3 and 4 of the Punjab Rent Act, 1995 has been dismissed.

2. The learned counsel for the petitioner contends that as per Section 3(1)(a) of Punjab Rent Act, 1995 (hereinafter to be referred as 'the Act'), the provisions of the Act are not applicable to the tenancy/ies, which are created prior to 30.11.2013. The respondent- landlord himself acknowledged in his petition that petitioner is a tenant in the demised premises prior to 30.11.2013 i.e. the date of commencement of new Act.

Therefore, respondent's petition filed under Section 24 of the Act, is not legally maintainable in the eyes of law. In this regard, learned counsel referred to the averments of the respondent, wherein he specifically pleaded that about 20 years ago, an oral rent agreement was entered between Ashok Khullar, the father of the petitioner and the respondent-landlord. Subsequently, father of the petitioner died and he became a tenant under him in the demised premises.

3. Learned counsel submits that the aforesaid material averments show that the tenancy was created prior to the commencement of the Punjab Rent Act, 1995. In view of Section 3(1)(a) Act, which provides that nothing in the Act shall apply to the premises let out before the commencement of the Act, which came into force on 30.11.2013 vide Notification No. 9/19/2004-41G4/122029/1 dated 12.11.2012 published in Punjab Government Gazette (Extra) November, 12th 2013.

4. Learned counsel further contends that the rent agreement dated 31.03.2015 entered between the petitioner and respondent is nothing but an extension of earlier tenancy, because petitioner became a statutory tenant on the demised premises after the death of his father. Therefore, the petition under the new Rent Act, 1995 is not maintainable. Arguing further in this regard, it is stated that alleged rent agreement is also not registered. Section 4 of Punjab Rent Act, 1995, mandates registration of the rent agreement, specified in Schedule 1 appended to the Act. Therefore the rent agreement cannot be used against the petitioner.

5. Learned counsel urges that learned Rent Controller failed to appreciate all the these facts in the light of the provisions of the law and committed a

jurisdiction error in dismissing the application filed by the petitioner under Order 7 Rule 11 CPC read with Section 3 and 4 of the Act. A prayer is thus made to allow the petition and order should be set aside.

6. On the contrary, learned counsel for the respondent contends that impugned order is justified. Learned counsel states that, according to the version of the respondent, after the death of petitioner's father, new rent agreement dated 31.3.2015 was executed between the parties. Therefore, the provisions of Punjab Rent Act, 1995 would be applicable. Learned counsel contended that learned Rent Controller has also noted the effect of the non-registration of the agreement of rent and observed that its consequence would be considered on the merits of the case. Submitting that there being no merit in the revision, it should be dismissed.

7. I have considered the rival contentions of learned counsel for the parties.

8. In an application under Section 24 of the Act, respondent-landlord specifically averred that petitioner's father was previously a tenant on the shop in dispute, and after his death, petitioner became a tenant. It is also specifically averred by the respondent- landlord that new rent agreement was executed between the parties on 31.03.2015 and also detailed the terms of rent agreement. The fact of the execution of the rent agreement is not disputed by the petitioner. Whether aforesaid agreement was new, distinct or an extension of previous agreement, are the matters to be decided on the merits of the petition. At this stage, the Court is to consider the pleadings contained in the petition as raised by the plaintiff. The law is settled that for deciding an application under Order 7 Rule 11 CPC, the averments of the

plaint are to be seen and not the pleadings of the respondent. Copy of application under Section 24 (Annexure P-1) would show that respondent-landlord is relying on the rent agreement dated 31.03.2015. Evidently, new Punjab Rent Act, 1995 was enforced and was applicable when rent agreement was executed. Insofar as non registration of rent agreement is concerned , the learned Rent Controller has observed that impact of non-registration of the rent agreement would be considered on the merits of the case.

9. In view of the above, this Court finds no illegality in the order warranting any interference by this Court . Accordingly, revision petition is dismissed.

10. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

13.02.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No