

115.

2024:PHHC:049638

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

Civil Revision No.2167 of 2024 (O&M)

Date of decision: 10.04.2024

Hans Raj, aged about 69 years, son of Kartar Ram son of Isher Ram, running his service station at Dulladi Gate, near Gau Shala, Nabha, District Patiala

.... Petitioner

Versus

Idol of Shri Ram Chander Ji installed in Ram Mandir with Smadh Sarowali, Dulladi Gate, Nabha, District Patiala, through its pujari Bishwa Vasu (Advocate) son of Sadhu Ram Shastri, resident of Purana Hathi Khana, Nabha, District Patiala, Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Harkirat Singh Sandhu, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Challenge in this revision petition is to the order dated 27.02.2024 passed by learned Appellate Authority, Patiala, whereby appeal filed by the tenant, petitioner herein, against the judgment dated 14.03.2023 passed by learned Rent Controller, Nabha, in a rent petition i.e. RP/11/2019 filed by the respondent-landlord for ejectment of the petitioner-tenant on the ground of non-payment of rent as well as bona fide necessity, has been dismissed.

2. It is submitted that the landlord is the pujari of the mandir and the property, in question, is of mandir. Earlier, the rent was being paid to the previous pujari and after his death, rent is being paid to the landlord. Learned Rent Controller wrongly held that the tenant did not step into the witness-box to oppose the case of the respondent, so adverse inference was required to be

drawn. The other evidence on the file was ignored. Jatinder Singh Shah, PW-3, had admitted in his cross-examination that there is other passage for ingress and egress to Usha Mata Public School and Kali Mata Mandir. Said witness further stated that the passage at Mark-C and Mark-E as shown in red ink can be made wider by demolishing the shop of mandir at point-F shown with red ink in the site plan Ex.P2. RW1 Bhupinder Singh Sidhu, approved Draftsman, Nabha, proved that there is other suitable place to widen the passage to the temple and there is no need to get the shop vacated. It is contended that the entire rent has been paid and there were no arrears, however, both the issues have been wrongly decided against the tenant.

3. Notice of motion.

4. Mr. Anupam Singla, Advocate has caused appearance on behalf of respondent as caveator and *vakalatnama* filed with the caveat on behalf of the respondent is taken on record. He has stated, at the outset, that possession of the demised premises has already been obtained by filing execution in the court. There is no dispute with regard to relationship of landlord and tenant between the parties. Petitioner did not step into the witness-box. The burden was on the petitioner-tenant to prove that entire rent was paid. No evidence was led by the petitioner-tenant that there was no arrears of rent. A tenant cannot guide the landlord to use the property in a particular manner. The property is part of Ram Mandir.

5. I have heard the submissions of learned counsel for the parties and have gone through the file.

6. The relationship of landlord and tenant has been admitted by the parties. The petitioner was inducted as tenant in the demised shop on 03.03.1994. The landlord claimed arrears @ Rs.450/- per month w.e.f. 01.04.2017 whereas the tenant has submitted that the rent has already been paid up to 31.05.2018. The provisional rent was assessed w.e.f. 01.06.2018 to 28.02.2021. There is no dispute with regard to rate of rent. It is settled law that payment of rent is to be proved by the tenant. Reference can be made to judgments in *Shamma Rani Versus Mohan Lal and another, Law Finder Doc Id # 634363; Bal Krishan Versus Krishan Kumar Gupta, Law Finder Doc Id # 16662; Kishori Lal Versus Hari Chand, Law Finder Doc Id # 3713; Karpoori Thakur Versus Dewan Chand, Law Finder Doc Id # 3039 and Rajinder Kumar Versus Jai Singh, Law Finder Doc Id # 16005*. Although the petitioner-tenant took a plea that he had paid the rent upto 31.05.2018, but no evidence was brought on the file that rent w.e.f. 01.04.2017 to 31.05.2018 stood paid. Even the petitioner-tenant did not step into the witness-box to deny the said fact that rent for said period was not due. There is neither any rent receipt nor any other evidence, so the learned Rent Controller held that the petitioner-tenant was in arrears of rent. It is well settled that a landlord is the best judge of his own needs and tenant cannot dictate terms to the landlord. The tenant relied upon the report of RW1 Bhupinder Singh Sidhu, approved Draftsman, Nabha but same does not inspire any confidence. Said report is with regard to other passage for ingress and egress to Usha Mata Public School and Kali Mata Mandir

whereas the landlord requires the shop for expansion of the passage leading to Ram Mandir, so necessity of the landlord cannot be doubted. Both the courts below have rightly held so and this Court too does not find any ground for interference. The revision petition is without any merit and it is dismissed accordingly.

7. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

April 10, 2024
sanjeev

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