



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-3664-2024 (O&M)
Date of decision: 04.07.2024

Geeta Vasudev

...Petitioner

Versus

Veena Jindal

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. M.K. Bhatnagar, Advocate for the petitioner.

VIKAS SURI, J.

1. This revision petition has been filed by petitioner-tenant under Article 227 of the Constitution of India for setting aside order dated 27.05.2024 (Annexure P-1) passed by the Rent Authority, Ludhiana, whereby the application under Order 7 Rule 11 CPC was dismissed.
2. Brief facts of the case are that the respondent filed a petition under the Punjab Rent Act, 1995 (for short 'the Act') for ejectment of the petitioner-tenant from the property bearing No.B-5/379, Chauri Sarak (Ground Floor), Ludhiana. It was averred in the rent petition that the demised premises was given on rent to the petitioner at a monthly rent of Rs.8750/- plus house tax and other taxes etc. in the year 2017. It was an oral tenancy. Upon notice of the rent petition, the petitioner-tenant entered appearance and moved an application under Order 7 Rule



11 CPC for rejection of the rent petition. Upon notice thereof, the respondent-landlord opposed the same by filing reply. The rejection of the rent petition has been sought on two grounds namely, non issuance of notice prior to filing of the petition raising demand for arrears of rent and the petition being not maintainable in view of bar under Section 4 of the Act. The respondent-landlord placed reliance upon decision by this Court in *M/s A.R. Ventures and others vs. M/s Roop Square Pvt. Ltd. and others*, 2021(2) Rent Control Reporter 276. The Rent Authority dismissed the application vide impugned order dated 27.05.2024 (Annexure P-1). Aggrieved by the order dismissing the aforesaid application, the petitioner-tenant has invoked the jurisdiction of this Court by way of the present petition.

3. I have heard learned counsel for the petitioner and with his able assistance perused the record.

4. Learned counsel for the petitioner has reiterated both the grounds taken in the application seeking rejection of the rent petition. It would be apposite to refer to the relevant provisions of the Act.

4. Registration of tenancy agreement.—

(1) Notwithstanding anything contained in section 107 of the Transfer of Property Act, 1882, no person shall, after the commencement of this Act, let or take on rent any premises except by an agreement in writing.

(2) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), every agreement referred to in sub-section (1) shall be in the Form specified in Schedule I appended to this Act and shall be registered under and in accordance with the provisions of the Registration Act 1908 by the



authority specified thereunder, on payment of registration fee of rupees one thousand.

20. Protection of tenants against eviction.—(1)

Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Rent Authority in favour of the landlord against any tenant, save as provided in subsection (2).

(2) The Rent Authority may, on an application made to it in the form specified in Schedule XII to this Act make an order for the recovery of possession of any premises on one or more of the following grounds only, namely :-

- (a) that the tenant has neither paid nor tendered the whole of the arrears of the rent and other charges payable for three or more consecutive months legally recoverable from him within two months of the date on which a notice in the Form specified in Schedule VII to this Act, of demand for the arrears of such rent and other charges payable and interest at the rate of fifteen per cent, for the period of default has been served on him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882:

Provided that a tenant shall not be entitled to the benefit of service of notice by the landlord under this clause where having obtained such benefit once in respect of any premises, he again makes a default in the payment of rent and other charges payable in respect of those premises.

- (b) xxx



5. A perusal of the impugned order shows that the Rent Authority arrived at the conclusion that non-issuance of notice demanding arrears of rent from the tenant before filing of the petition is not a ground to reject the same, while placing reliance upon **A.R. Venture's case** (supra). The relationship of landlord and tenant between the parties is not in dispute. It was also noticed that the petitioner-tenant had earlier filed an application under Section 19(3) of the Act against the respondent-landlord seeking directions for restoration of amenities contending that she is the tenant of the respondent. It was further held that as the petitioner-tenant has already approached the Rent Authority under the provisions of the Act on the basis of oral tenancy, she has no right to assert the alleged bar under Section 4 of the Act.

6. The above noticed issue urged by learned counsel for the petitioner is no longer *res integra*. In **A.R. Venture's case** (supra), it was held as thus:-

“In this regard; a perusal of the provisions of Section 4 of the Act shows that it has two distinct portions. Sub section (1) of Section 4 creates a prohibition both, against a tenant, as well as against the landlord qua taking or giving a property on rent except by a written agreement. This prohibition starts with a non-obstante clause against the provision of the Transfer of Property Act. Since there is a non-obstante clause even against the transfer of Property Act, therefore, if a person enters into a property as a tenant without a written agreement to that effect then such a person does not get any legal right qua such property. In absence of written agreement, landlord shall not be a statutory



landlord under the Act and the tenant shall not be a statutory tenant. The status of such a person shall not be even of permissive possession. Such a person shall not be more than a rank- trespasser. He shall not be entitled to any kind of protection or defence against the landlord. However, the landlord shall still be having full ownership rights over such property, including his right to un-interrupted possession to the property; being a lawful owner. Hence, the landlord shall be fully entitled to ask such a person to vacate the property, and if not so vacated, to throw out such a person without recourse to any legal process. Even if the landlord takes recourse to a legal process, then the Court shall also be bound to order restoration of possession without entertaining any defence on the part of any such alleged tenant. Hence, it is only with a written agreement, the tenant becomes a statutory tenant under the present Act and the landlord becomes a statutory landlord under the Act; and both are to be governed by the provisions of the Act making them entitled to some legal rights and subjecting them to certain legal liabilities. Sub section (2) of Section 4, which requires registration of Rent agreement, also starts with a non-obstante clause. However, this non-obstante clause is made operable against all the provisions contained in the Registration Act. Before the amendment of the year 2014 even the authority where the rent agreement was to be registered was specified to be the Rent Authority itself. The authorities under the Registration Act had no concern with the rent agreement. Hence, it was not a document compulsorily registrable under Section 17 of the Registration Act. Rather, due to non-obstante clause, it was registrable only under Section 4 of the Punjab Rent Act. The provision of Section 4 as amended by the amendment Act of 2014 prescribes that the rent agreement under the



Act shall be in the format specified in the schedule to the Act and the same shall be registered under and in accordance with the provisions of and with the authorities prescribed under the Registration Act. However, the fee to be paid for such registration has been specified by the provision of Section 4 itself. Hence, it is clear that while sub section (1) of Section 4 overrides Section 107 of the Transfer of Property Act, sub section (2) is enacted in the nature of over riding the provisions of the Registration Act, 1908; except to the extent of same being saved by the language of this very sub section, that is, regarding the authorities with which and the manner in which it is to be registered. The compulsory registrability and the form of the rent agreement is not arising from Section 17 of the Registration Act. Rather, the registrability, the format of agreement and the fee payable for such registration are referable, exclusively, to Section 4 of Punjab Rent Act and not Section 17 or any other provision of the Registration Act. Any other interpretation would render the non-obstante clause used against Registration Act as nugatory. Hence, even the word 'under' used in Section 4 has to be read as relating to formalities and requirement to be completed for undergoing the procedure of registration under the Registration Act. Therefore, registration of rent agreement is referable to Section 4 of the Punjab Rent Act and not to the provision of Section 17 of the Registration Act. The second aspect of this provision is that it does not create any consequences for non registration of a rent agreement entered into between the parties under the Act. In the Punjab Rent Act there is no other provision also, prescribing any consequences for non-registration of rent agreement. Therefore, this provision, as contained in Section 4 (2) of the Act is only directory in nature. Once an agreement is in writing, as



is contemplated under sub section (1) of Section 4, it becomes a valid agreement. Mere non registration of this agreement, does not divest it of its essential character and nature. Since the provision as contained in sub-section (2) requires registration and procedure thereof, and no further consequences are provided for it, this registration can be interpreted to be only by way of ensuring that the public authorities are having the record of the rent agreements and the scope of disputes between the parties to the agreements is narrowed down. But non registration of the agreements as such would not make the agreements to be void.”

7. The second ground raised on behalf of the petitioner for seeking rejection of the rent petition has also been dealt with in **A.R. Venture’s case** (supra). The relevant portion of the judgment reads as thus:-

“Issue No. (i) For speedy disposal of the cases, the provisions of the Act as mentioned above, prescribe a procedure meant for Court of Small Causes to be followed by the Rent Authority. Therefore, the Act also restricts the filing of applications before the Rent Authority only to the ones as are prescribed in the schedule to the Act. Hence, no further applications, except as prescribed in the schedule; or as envisaged by other Sections like Section 38(7)(b) is to be entertained by the Rent Authority. Needless to say that the 'Rent Authority' has been created as a statutory authority whose powers are circumscribed by the provisions of the Act and not as a Court. The application for rejection of an eviction petition for want of service of notice upon a tenant, as was moved by the petitioner in the present case, is not maintainable in itself, under the



provisions of the Punjab Rent Act.

Issue No. (ii) A perusal of Section 20 shows that it is only the passing of the order or decree for recovery of possession of a premises on the grounds mentioned in sub section (2); which has been prohibited by the Act if the notice in specific format as in Schedule VII is not given by the landlord to the tenant. The question of passing of order or decree for recovery of possession of a premises comes only at the stage of disposal of the petition. Therefore, prohibition created by non-obstante clause of sub section (i) of Section 20 cannot be invoked at the stage of filing of the petition. Hence, merely because of want of notice, as contemplated by sub section (2) of Section 20 of the Act, the petition filed by the landlord for recovery of possession, as such, cannot be rejected as non-maintainable. This is made more clear by the fact that the non payment of rent is not the only ground for seeking recovery of possession, rather, there are other grounds as well, for which a landlord can seek recovery of possession under Section 20(2) of the Act without there being any requirement of notice being served upon the tenant in a specified format.

Therefore, the consequences of not giving notice to the tenant by the landlord in the format specified in VII Schedule may arise at a later stage, which may be considered by the Rent Authority/Court, as per prevalent legal situation, however, mere non service of any such notice in itself, is not a ground for rejection of the eviction petition filed by the landlord. Therefore, as a cumulative effect of the decision on issues (i) and (ii) above, this Court holds that no application at the instance of a tenant for rejection of an eviction petition on the ground of non service of notice specified in the VII schedule is maintainable. The Rent Authority



cannot even entertain any such application as such. Still further, the eviction petition cannot be rejected and dismissed as non-maintainable only because of the fact that the landlord had not given any notice before filing the same on account non-payment of rent. Therefore, the arguments of counsel for the petitioner against dismissal of his applications by the Courts below, qua rejection of the eviction petition, is rejected. The orders passed by the Courts below in this regard are upheld.”

8. No other point has been pressed or argued.

9. A conspectus of the above discussion shows that both the issues, agitated again in the instant revision, already stand decided against the tenant by a coordinate Bench. Moreover, learned counsel for the petitioner has also not been able to refer to any judicial precedent to counter the decision rendered in ***A.R. Venture’s case*** (supra), followed by the Rent Authority.

10. In the light of the above, I am of the considered view that the impugned order dated 27.05.2024 passed by the Rent Authority does not suffer from any illegality or infirmity that would warrant interference by this Court in exercise of revisional jurisdiction.

11. Accordingly, the present revision petition being bereft of merit is dismissed in *limine*.

July 04, 2024

sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No