

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6454 of 2019 (O&M)
Date of Order: 12.02.2024

Parkash Kaur

..Petitioner

Versus

Kishori Lal Veer Dev and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. R.S.Athwal, Advocate
for the petitioner.**

**Mr. Ashish Gupta, Advocate
for respondent no.1 and 2.**

ANIL KSHETARPAL, J

1. The petitioner herein is a tenant, who has been ordered to be evicted by the Rent Controller which in appeal has been affirmed by the Appellate Authority.

2. It has been found that the petitioner is in possession of the property pursuant to the fact that respondent no.1, namely, Ms/ Heera Nand Daulat Ram was the original tenant and the firm let out the property to its employee Sh. Roor Singh, predecessor-in-interest of the petitioner.

3. Both the courts have concurrently found that the tenant had sub-let the premises without the written consent of the landlord.

4. This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paper book.

5. The learned counsel representing the petitioner submits that previously Sh. Roor Singh filed a suit against Sh. Veer Dev for grant of decree of declaration that he is owner in possession of the property. In the aforesaid suit, the defendant failed to prove his ownership, whereas, the

plaintiff withdrew the relief of declaration. In the aforesaid suit, only relief of injunction against forcible dispossession was granted. He submits that in view of the aforesaid finding, the present petition was not maintainable.

6. This court has considered the submissions of the learned counsel representing the petitioner.

7. The judgment passed in the previous suit filed by Sh. Roor Singh has been placed on the file as Annexure P/1. Sh. Roor Singh filed the suit claiming that he has become owner of the property on the basis of adverse possession. From the pleadings of the parties, the following issues were framed in the previous suit:-

1. *Whether the plaintiff is owner in possession over the property in dispute and entitled for declaration as prayed for?OPP*
2. *Whether the plaintiff has become owner of the suit property by way of adverse possession?OPD*
3. *Whether the plaintiff is entitled for relief of permanent injunction as prayed for?OPD*
4. *Whether the suit had not been properly valued for the purpose of court fee jurisdiction?OPD*
5. *Whether the plaintiff has no locus standi and cause of action to file this suit by his act and conduct?OPD*
6. *Whether the suit is not maintainable in the present form?OPD*
7. *Whether the defendant is lessee over the suit property vide registered Sabutnama dated 20.02.1935?OPD*
8. *Whether the suit is barred under the Specific Relief Act?OPD*
9. *Relief."*

8. The plaintiff, as already noticed, abandoned the relief of declaration. The only relief which was granted to Sh. Roor Singh was to

protect his possession against forcible dispossession particularly when Sh. Veer Dev while defending the suit has claimed that Sh. Roor Singh is sub-tenant.

9. No doubt, the court made passing observations that the defendant has failed to produce any evidence regarding his ownership. However, it is evident that the aforesaid issue was neither directly nor substantially in issue in the first suit. Hence, the judgment in the previous suit shall not operate as res-judicata.

10. It has come on record from the rent receipt Ex.PW2/1 that Sh. M/s Heera Nand Daulat Ram was tenant under the petitioners and they paid the rent from November 1993 to March 2002. It has also come on record that Sh. Roor Singh was an employee of M/s Heera Nand Daulat Ram. On appreciation of the evidence, both the courts have held that the firm had sub-let the premises without the written consent/permission of the landlord.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

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

February 12, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO