

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119

2024:PHHC:045751

CR-7750-2019 (O&M)
Date of decision: 04.04.2024

TARSEM LAL

..Petitioner

Versus

SURESH KUMAR DHIR ATTORNEY HOLDER
OF SHAKUNTALA DHIR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Divanshu Jain, Advocate
for the petitioner.

Mr. Naveen Batra, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the tenant who has been ordered to be evicted by the Court of Rent Controller, which in appeal has been affirmed by the Appellate Authority. The scope of interference in a revision petition is extremely limited as delineated in **Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh (2014) 9 SCC 78.**

2. The learned counsel representing the petitioner has made the following submissions:-

- i. The landlady has not stepped into the witness box, hence, adverse inference was required to be drawn against her.
- ii. The requirement was for son and daughter-in-law of the landlady, however, they also did not step into the witness box.

iii. The necessary ingredients under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, with respect to the son and daughter-in-law having been pleaded in the petition.

iv. The sale deed has been proved at the final stage of the petition.

3. Per contra, the learned counsel representing the respondent submits that late Smt. Ram Piari Bedi was owner of the property. She sold the property through registered sale deed in favour of the petitioner namely Smt. Shakuntla Dhir. He submits that landlady's husband stepped into the witness box, who answered all the questions. He was not a stranger and he was in knowledge of all the facts. The landlady has produced sufficient evidence. Hence, there is occasion to draw adverse inference. He further submits that husband of the landlady has categorically stated that the parents want to settle their son and daughter-in-law, who are unemployed. He submits that the rent petition is required to be decided on preponderance of evidence and it is not necessary that all the persons from whom the requirement is pleaded himself appear in evidence. He relies upon the judgment passed in **Arun Kumar Vs. Des Raj Tandon (since deceased) through LR, 2018(2) RCR (Rent) 491**, in reply to submission No.(iii).

4. With regard to submission No.(iv), he submits that Smt. Shakuntla Dhir has purchased the property by a registered sale deed from Smt. Ram Piari Bedi, who had given the property on lease to the petitioner. He submits that in the rent proceeding, which are summary in nature, the Court is not required to decide question of title.

5. This Court has considered the submissions.

6. Section 114 of the Indian Evidence Act, 1872, enables the Court to presume existence of certain facts, which includes drawing of adverse inference particularly when the evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it. Such presumption can be drawn only if the party intentionally withholds the best evidence.

7. In each and every case, mere non-appearance of landlady/landlord in the witness box would not necessarily require the Court to draw adverse inference. It depends upon the facts and circumstances of the present case. In this case, the landlady's husband, who is also residing with her, has appeared in evidence. He has answered all the questions, which were put to him in his cross-examination. In these circumstances, the Courts have not erred in refusing to draw adverse inference.

8. The same is the answer to submission no.(ii), particularly, the petitioner's tenant has failed to prove that the son or the daughter-in-law own any other property or they are employed.

9. With regard to submission no.(iii), the answer has already been given in **Arun Kumar's case (supra)** in the following manner:-

*“22. It may be noted that as per the Act of 1949, no format of the petition has been prescribed. However, Hon'ble Full Bench of this Court in the case of **Banke Ram Vs. Sarasti Devi, AIR 1977 P&H 158**, has held that it is necessary for the landlord to plead these three ingredients. It is also well settled that after the judgment passed by the Hon'ble Full Bench, various judgments have been pronounced taking a view that once three ingredients as required have been proved on file, the petition would not be dismissed merely on the ground that the ingredients have not been pleaded in the pleadings. As noticed in the earlier part of the judgment, the*

expression “for his own occupation” has been interpreted to mean and include normal emanations of the landlord. The question which is required to be answered is whether it is incumbent upon the landlord to make assertion about the bona fide necessity of the dependent in terms of Section 13(3)(a)(i) of the Act of 1949. There is no dispute that the requirements of Section 13(3)(a)(i) of the Act of 1949 have to be pleaded with requisite respect to the landlord.

23. In the considered view of this Court, such requirement cannot be said to be pleaded necessary with respect to the relations for whom the eviction is being sought by the landlord who fall within the definition of the word “emanation” as interpreted by Hon'ble the Supreme Court. However, the tenant would be at liberty to bring to the notice of the Court that the person for whose necessity the eviction is being sought is either occupying another building or has vacated any such building without sufficient cause. The petitions cannot be dismissed only on account of the fact that there is no pleadings with respect to the relative of the landlord in terms of Section 13 of the Act of 1949. The Court would be required to examine in each case whether the landlord or the person for whose bona fide requirement eviction is pleaded fulfills the requirement of the Act or not. Therefore, as a abstract proposition of the law, it cannot be held that it is mandatory to plead in the petition all the three requirements of Section 13(3)(a)(i) of the Act of 1949.

24. If such interpretation is taken, it would even go against the well settled interpretation which is being followed by the Court even with regard to the landlord. The basic object under the Act is to test the bona fide requirement of the landlord or his normal emanations. A particular form of pleadings has neither been envisaged in the Act nor any particular format has been provided for. Accordingly, question No.1 is answered.”

10. The submission No.(iv) of the learned counsel representing the petitioner also lacks substance because the rent proceedings are summary and the landlord is not required to prove his title as in the civil case. It is not in dispute that the petitioner's suit for specific performance of the agreement to sell has already been dismissed by the trial Court against which, the

appeal is pending and the relationship of the landlord and tenant has not been specifically denied.

11. With these observations, the present petition is dismissed.
12. All the pending miscellaneous applications, if any, are also disposed of.

April 04th, 2024

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No