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

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Date of decision : 18.11.2024

Mahesh Shah

... Petitioner

Versus

Balwant Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Naveen Bawa, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. Challenge in the present revision petition is to the judgment dated 11.03.2024 vide which the Rent Controller, Ludhiana has allowed the eviction petition filed by the respondents. Challenge is also to the order dated 28.08.2024 vide which the appeal filed by the petitioner has been dismissed by the Appellate Authority, Ludhiana.

2. Learned counsel for the petitioner has submitted that there was no relationship of landlord and tenant between the present petitioner and the respondents and that the petitioner had illegally occupied the premises and was in adverse possession of the same. It is submitted that in the said circumstances, since there was no relationship between the landlord and tenant, thus the Rent Authority under the Rent Act had no right to pass the order of eviction and thus, the impugned order and judgment deserve to be

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set aside and the eviction petition filed by the respondents deserves to be dismissed.

3. This Court has heard the learned counsel for the petitioner and has perused the paper book and finds that the pleas raised by the petitioner are meritless and deserve to be dismissed for the reasons given hereinafter.

4. Respondents no.1 to 6 had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the present petitioner from the shop in question on the averments that Shingara Singh, father of respondents no.1 and 2 and of deceased Kulwant Singh, was the owner of a piece of land comprised in khasra no.633, khewat / khatuni no.848/908 and khasra no.1900/634, 1902/634, khewat / khatauni no.561/597 situated at Taraf Saidan now known as Bihari Colony, Opp. Guru Arjan Dev Nagar, Tajpur Road, Ludhiana and on the said land, had raised construction in the shape of shops for the purpose of letting out and one of the shops, was let out to the present petitioner at a monthly rent of Rs.750/-. It was further averred that the present petitioner had started paying monthly rent and thereafter, Shingara Singh had died on 24.04.2008 and after the death of said Shingara Singh, the entire property including the shop in dispute was inherited by the legal heirs of said Shingara Singh and thus, they became owners/ landlords of the shop in dispute. It was averred that intimation regarding death of Shingara Singh was given to the present petitioner, who attorned in favour of the present respondents and started making payment of rent to them and thus, there was relationship of landlord and tenant. The eviction petition was filed on the ground that the present

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petitioner had not been paying the arrears of rent w.e.f. 01.12.2011 at the rate of Rs.750/- per month.

5. In the written statement, the plea taken by the present petitioner was that there was no relationship of landlord and tenant. The Rent Controller framed issues and one of the primary issues framed, was as to “whether the respondent is in arrears of rent or not? OPP” The Rent Controller vide judgment dated 11.03.2024 allowed the eviction petition on the ground of non-payment of rent and directed the present petitioner to vacate the premises in two months time. While coming to the conclusion that there was relationship of landlord and tenant, the Rent Controller took into consideration the jamabandi for the year 2002-03, which was duly exhibited as Ex.P2, and as per which the property in question had been inherited by Balwant Singh-respondent no.1 along with his brothers being sons of Shingara Singh. It was further observed that on the other hand, the respondent had not even produced a single documentary proof to show as to in what capacity, they were residing in the suit property. It was further observed that the present petitioner Mahesh Shah had appeared as RW-1 and in his cross-examination, he had admitted that he was the tenant in the disputed property and after considering the same, the Rent Controller had passed the said judgment.

6. The Ist Appellate Court had specifically observed in paragraph 21 of its judgment that the present petitioner when he appeared as RW-1, had admitted the fact that the present respondents were the owners of the property and that the petitioner was tenant under them and it was further

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observed that once the relationship had been admitted in the evidence, then the said evidence was the best evidence in favour of the respondents-landlord and against the petitioner. On the said aspect of admission, several judgments including the judgment of the Hon'ble Supreme Court of India in the case of *Gannamani Anasuya & Ors. vs. Parvatini Amarendra Chowdhary & Ors.* reported as *2007(3) R.C.R. (Civil) 381* were taken into consideration. Even the jamabandis for the year 2007-08 (Ex.P3 and Ex.P6), for the year 2002-03 (Ex.P4) and for the year 1997-98 (Ex.P5) were taken into consideration to come to the conclusion that it were the respondents who were owners / landlords of the property and the present petitioner was the tenant under them and accordingly, the appeal of the petitioner was dismissed.

7. The abovesaid findings clearly show that the aspect with respect to the relationship of landlord and tenant had been admitted by the tenant-petitioner, who had appeared as RW-1 and the said admission by RW-1 has not been disputed before this Court, nor it has been stated that the said evidence has been misread. The said vital piece of evidence, in addition to the jamabandis and documents which are already on record, clearly show that the petitioner is a tenant under the respondents and both the trial Court as well as the Ist Appellate Court have correctly come to the said conclusion and the concurrent findings of both the Courts on the said aspect do not suffer from illegality or perversity. The aspect of the petitioner being in arrears of rent w.e.f. 01.12.2011 and the finding on the same have not been challenged and thus, the eviction of the petitioner on the ground of non-



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payment of rent, is in accordance with law.

8. Accordingly, the impugned orders deserve to be upheld and present revision petition being meritless deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

November 18, 2024.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No