

CR-7749-2023 (O&M)

-1-

122

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7749-2023 (O&M)

Date of Decision : 10.01.2024

Mulakh Raj (Now deceased) through His LRs

....Petitioner

VERSUS

Vineet Sehla

....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Santosh Sharma, Advocate for the petitioner.

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SUDEEPTI SHARMA, J. (Oral)

1. The present revision petition has been preferred by the tenants against orders dated 04.10.2018 and 25.10.2023 passed by the Authorities below returning concurrent findings of fact and ordering their ejection.

2. Brief facts relevant to the present *lis* are that the landlord-respondent filed an ejection petition under Section 13 of the Haryana Urban (Control of Rent & Eviction), Act, 1973 (hereinafter referred to as the 'Haryana Rent Act') for eviction of the present petitioners from the shop in dispute on the ground of non-payment of rent, nuisance, personal bonafide necessity and dilapidated condition. It is averred in the petition that the said shop was purchased by the petitioner-landlord vide registered sale-deed No.20696 dated 01.02.2012 for valuable consideration of Rs.8,15,000/-. It has been further averred that the landlord does not want to keep the tenants petitioners herein in his above said shop on the ground that

they have not paid or tendered rent to the landlord since 01.02.2012 @ Rs.10,000/- per month, they are creating nuisance to the public at large, the shop is required for the personal necessity and bonafide need for the respondent-landlord and the same is unfit and unsafe for human habitation and requires construction. The learned Rent Controller vide order dated 04.10.2018 allowed the ejectment petition. Aggrieved by the said order, an appeal was preferred by the present petitioners. Before the Appellate Authority it had been contended that since there was no relationship of landlord and tenant between the present petitioners (tenants) and the landlord-respondent, no ejectment order could have been passed against them. However, the learned Appellate Authority upheld the judgment passed by the Rent Controller and dismissed the appeal filed by the tenant-petitioners by passing a detailed speaking order on 25.10.2023.

3. Learned counsel for the petitioners submits that no order of ejectment could have been passed against the petitioners since there was no relationship of landlord and tenant between the parties.

4. I have heard learned counsel for the petitioners and perused the whole record.

5. On the basis of the pleadings of the parties, the following issues were framed by the learned Rent Controller:-

1. Whether the respondent had not paid the rent of the shop since 01.02.2012? Whether the respondent/tenant is liable to pay the rent @ Rs.10,000/- per month besides house tax? OPP

2. Whether the respondent/tenant is creating nuisance to the public at large and is liable to be ejected on this ground?

OPP

3. Whether the petitioner is in personal necessity of the rented shop and required the same for starting a new business of departmental store and crockery items as alleged in para No.3 (iii) of the petition? OPP

4. Whether the shop in question is in dilapidated condition and is unfit and unsafe for human habitation? OPP

5. Whether there is relationship of landlord-tenant between the petitioner and respondent? OPP

6. Whether the petitioner has no cause of action to file the present petition and the present petition is not maintainable? OPR.

6. The petitioner examined 04 witnesses and the respondents examined one witness. The documents were also exhibited/marked.

7. So far as Issue Nos. 1 and 2 are concerned they are decided against the respondent-petitioners.

8. So far as issue No.3 regarding personal necessity of the rented shop is concerned, the respondent-petitioner was examined as PW-2 and personal necessity was proved through affidavit by stating therein that he does not have any shop in locality and is himself using the tenanted premises for running his business. The same was corroborated on record vide receipts P-27 to P-37. The petitioner-respondent relied upon the

transfer deeds Ex.D/2 and D/3 stating that they are sale deeds executed by respondent/petitioner (landlord). A perusal of the same shows that sale deeds were qua the residential house and not a shop. Even Ex.D-4 and D-6 are transfer deeds qua residential house and Ex.D-5, D-7 and D-8 are gift-deeds qua residential house. All the documents/evidence led by the petitioner-respondent (tenant) could not prove that respondent-petitioner (landlord) had any “*vacant shop*” within the Municipal limits. A perusal of the record further shows that even reply was filed after three years of filing of the petition by the petitioner-respondent. The petitioner-respondent (tenants) could not prove that the respondent-petitioner (landlord) does not do commercial business of “Egg Trading” and “ILETS coaching”. As per the pleadings of the petitioner-respondent (tenant), the respondent-petitioner (landlord) filed receipts of rent (Ex.P-26 to P-37), which proved that he was running his business from some other tenanted premises. In view of the same Issue No.3 of the ‘*Bonafide necessity*’ was decided in favour of the respondent-petitioner (landlord).

9. Issue No.4 that the shop in question is in dilapidated condition and is unfit and unsafe for human habitation was decided against the respondent-petitioner (landlord).

10. So far as issue No.5 is concerned as to relationship of landlord-tenant between the petitioner-respondent and respondent-petitioner, learned Rent Controller after perusing the whole record regarding the ownership of the respondent-petitioner (landlord) decided this issue in favour of the respondent-petitioner (landlord). Also in his cross-examination, the

CR-7749-2023 (O&M)

-5-

petitioner-respondent (tenant) admitted respondent-petitioner as his landlord.

11. After perusing the impugned orders dated 04.10.2018 and 25.10.2023 passed by both the Courts below, this Court does not find any perversity or infirmity in the same and accordingly, the present revision petition is dismissed being devoid of any merit.

12. Pending applications, if any, also stand disposed of.

January 10, 2024
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No