



**236 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 15.02.2025

1.

CR-3995-2018 (O&M)

Akashdeep Singh Khaira

...Petitioner

Vs.

Chaman Lal Dhamija (Deceased) through
his legal representatives

...Respondent
2.

CR-3977-2018 (O&M)

Akashdeep Singh Khaira

...Petitioner

Vs.

Shyam Singh Chauhan

...Respondent
3.

CR-3989-2018 (O&M)

Akashdeep Singh Khaira

...Petitioner

Vs.

Ramesh Kumar Gupta

...Respondent
4.

CR-3937-2018 (O&M)

Akashdeep Singh Khaira

...Petitioner

Vs.

Parshotam Lal Dhamija

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: **Mr. Arshdeep Singh Bhullar, Advocate
for the petitioner(s) (in all the petitions).**

**Mr. Kapil Aggarwal, Advocate
for the respondent(s) in CR-3989-2018.**



Mr. N.K. Manchanda, Advocate
for the respondent(s) in CR-3937-2018, CR-3977-2018 and
CR-3995-2018.

ANIL KSHETARPAL, J. (Oral)

1. **Brief facts:-**

1.1 With the consent of learned counsel representing the parties, these four connected revision petitions filed by the landlord challenging the Appellate Authority's order shall stand disposed of by a common order.

1.2 The only issue that requires adjudication in all these four revision petitions is, “as to whether the Appellate Authority has erred in reversing the orders of eviction of the tenants (respondents herein)?”.

1.3 In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

1.4 Sh. Akashdeep Singh Khaira-the petitioner herein filed various petitions including four petitions under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the tenants from various shops. The petitioner claims that his grandmother, namely, Smt. Amarjit Kaur purchased the property from Sh. Balwant Singh @ Balwant Rai by virtue of sale deed dated 28.02.1975. Subsequently, Smt. Amarjit Kaur (grandmother) transferred the property by virtue of a registered sale deed in favour of the petitioner on 27.03.2012. The petitioner further claims that his grandmother inducted the respondents or their predecessor(s)-in-interest as tenants. He prayed for eviction of the respondents on the ground of his *bona fide* personal necessity as well as non-payment of rent from 01.01.2010. The respondents



while filing the written statement admitted that they are in possession of the property as a tenant, however, they claimed that previously 'Money Garments' was in possession and there is no relationship of landlord and tenant between the parties. The ownership of the petitioner was also disputed. It was claimed that previously the shop was in possession of their predecessor(s)-in-interest and they continue in possession after their death.

1.5 The replication to the written statement was filed by the respondents. The Rent Controller culled out the following issues:-

- "1. Whether there exists a relationship of landlord and tenant between the petitioner and respondent?
OPP*
- 2. If issue No. 1 is proved, whether the rate of rent of the shop in dispute is Rs. 2500/- per month?
OPP*
- 3. Whether the respondent is liable to be evicted from the shop in dispute, being arrears of rent since 01.01.2010 till filing of the present petition?
OPP*
- 4. Whether the respondent is liable to be evicted from the shop in dispute, as the petitioner requires the same for his own use and occupation? OPP*
- 5. Whether the petition of the petitioner is not maintainable in the present form? OPR*
- 6. Relief."*

1.6 The Rent Controller found that the relationship of landlord and tenant is proved as the entry in favour of predecessor-in-interest of the respondent as tenant came into existence in the year 1987 and the petitioners' grandmother was reflected as an owner. In the Municipal record, the



predecessor of the respondents was shown as her tenant. The Rent Controller also found that the *bona fide* necessity of the petitioner is genuine and the tenants have failed to pay the rent from the year 2010.

1.7 Four appeals were filed before the Appellate Authority. The Appellate Authority has held that the petitioner's grandmother purchased 1/3rd share out of 17 marlas 4 sarsahies land by virtue of registered sale deed dated 28.12.1975 from Sh. Balwant Singh @ Balwant Rai, its erstwhile owner. However, subsequently, Smt. Amarjit Kaur transferred 17 marlas 4 sarsahies area in favour of petitioner. Hence, the Court held that transfer of 17 marlas 4 sarsahies illegal because she could not transfer more than what she owned.

2. **Evidences adduced:-**

2.1 In order to prove the case, the petitioner himself appeared in evidence and examined PW/1-Sh. Ritesh Kumar, Clerk of the Municipal Council, Moga. He also examined PW/3-Sh. Balbir Singh, PW/4-Gurdeep Singh, PW/5-Bawa Singh and PW/6-Sh. Davinder Singh Gill.

2.2 In documentary evidence, he produced copy of the Municipal Council's assessment register pertaining to year 1989-90 and various eviction orders passed by the Court of Rent Controller with respect to adjoining shops were also produced.

2.3 *Per contra*, learned counsel representing the respondents examined the official firm registration authority and themselves appeared in evidence.

3. **Arguments put forth the by the learned counsel representing the parties:-**



3.1 Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

3.2 Learned counsel representing the petitioner has made the following submissions:-

1. The copy of *jamabandi* referred to by the Appellate Authority is not part of the record.
2. Though the relationship of landlord and tenant is denied by the respondents, however, they have not assailed the correctness of sale deed executed in favour of the petitioner.
3. In a rent petition, the ownership of the property is not required to be decided.
4. The petitioner has proved that his grandmother had inducted the respondents as tenants in the shop, which is proved from the Municipal entries from 1987.

3.3 *Per contra*, learned counsel representing the respondents submits that though the respondents are tenants, however, they do not know who inducted them but the petitioner has failed to prove the landlord-tenant relationship.

4. **Analysis and Discussion:-**

4.1 This Court has considered the submissions made by the learned counsel representing the parties.

4.2 The Appellate Authority has erred in overlooking the fact that the petitioner being one of the co-owners of the property is entitled to maintain the



petition while sidestepping the judgment passed by the Hon'ble Supreme Court in 'Mohender Prashad Jain vs. Manoharl Lal Jain', 2006(2) CCC 91 Supreme Court, wherein, it has been held that one co-sharer can initiate eviction proceedings. The Appellate Authority has further overlooked the fact that the concept of 'co-owner' with respect to agricultural land while referring to khewat would not be applicable to the area having construction.

4.3 The Appellate Authority has also overlooked the conclusions arrived at by the Rent Controller while reversing its judgment. Before setting aside the lower Court's judgment, the appellate Court is expected to critically analyze the reasons recorded in the impugned judgment/order.

4.4 The Appellate Authority has overlooked that four similar petitions filed by the landlord with respect to tenants over the adjoining shops were allowed. The copies of the judgments were produced on record.

4.5 Moreover, it is not the finding of the Appellate Authority that ten shops constructed over the plot is beyond the share of the landlord. Even, if the landlord's grandmother had purchased 1/3rd share out of 17 marlas 04 sarsahies plot still they were co-sharers. Other co-owners have never disputed the landlord's ownership.

4.6. Additionally, the word 'landlord' is not synonymous with the 'owner'. Any person who is entitled to receive the rent is the landlord. Section 2(c) of the East Punjab Urban Rent Eviction Act, 1949 reads as under:-

"Landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian,



receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorised, and, every person from time to time deriving title under a landlord.

4.7 It is evident that though the respondents admit to be in possession of the property of the shops as tenant, however, they are not paying rent to anyone. The respondents admit themselves to be in possession of the shops as tenants, however, they have failed to disclose the name of their landlord or produce receipts to show payment of rent to someone else. In such circumstances, the Municipal record becomes significant, wherein, the petitioner's grandmother is recorded as an owner/landlord, whereas, predecessor of the respondents are reflected tenants under her. Once, the respondents have failed to disclose the name of their landlord, the Court was required to draw adverse inference against them because they have withheld the best evidence. A tenant is expected to know the name and details of his/her landlord.

4.8 It is not a disputed fact that the respondents have not paid the rent from 2010. They are in possession of the property for the last 15 years without payment of rent. The First Appellate Court has also not set aside the findings of fact arrived at by the Rent Controller that the *bona fide* necessity of the petitioner is genuine. It is evident that the judgment passed by the Appellate Authority is against all canons of law as it goes against the fundamental tenants of justice and legal norms. The judgment is in complete violation of established legal principles, rules and precedents.



5. **Decision:-**

5.1 Consequently, all the four revision petitions are allowed. The judgment of the Appellate Authority is set aside and that of the Rent Controller is restored.

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

(ANIL KSHETARPAL)
JUDGE

15.02.2025

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