



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7598 of 2024 (O&M)

Date of Order:07.01.2025

Sandeep

.Petitioner

Versus

Maina Devi

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.K.Malhotra, Advocate
for the petitioner.

ANIL KSHETARPAL, JUDGE (Oral)

1. In implementation of the Appellate Authority's order of eviction, the petitioner stands dispossessed from the tenanted premises.
2. This revision petition has been filed after the petitioner (the alleged tenant) stood dispossessed in execution of the eviction order.
3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
4. Initially, the petitioner filed a suit for grant of decree of permanent injunction restraining the respondent from forcibly dispossessing him from the shop in question. The defendant(s) in the injunction suit, namely, heirs of Sh. Ishwar Chand Jain while contesting the suit claimed that the petitioner is in possession of the shop as tenant. The trial court vide order dated 07.03.2019, granted an injunction in favour of the petitioner on the ground that the parties are landlord and tenant and the petitioner being in settled possession cannot be dispossessed except in due course of law.
5. Subsequently, the widow of Late Sh. Ishwar Chand Jain, filed a



petition under Section 13 of the Haryana Urban Control of Rent and Eviction Act, 1973, claiming order of eviction on the ground of non-payment of rent. Vide order dated 26.07.2024, the provisional assessment of rent was made, however, the petitioner did not pay the amount. Subsequently, the Rent Controller refused to order eviction despite non-payment of rent.

6. The Appellate Authority ordered the petitioner's eviction while relying upon the judgment passed by the Supreme Court in **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation, 2002(1) RCR (Rent) 514**, wherein it was laid that failure to pay provisionally assessed rent by the Court entails eviction.

7. The learned counsel representing the petitioner contends that the petitioner has denied the relationship of tenant and the landlord and therefore the order of eviction is incorrect.

8. This court has considered the submission of the learned counsel representing the petitioner. The learned counsel representing the petitioner, on a Court question, has failed to produce the copy of the plaint of the previous suit filed by the petitioner. He also does not dispute that vide order dated 07.03.2019, the Civil Court granted an injunction in favour of the petitioner after *prima-facie* recording findings that there exists a relationship of landlord and tenant between the parties.

9. The non-payment of provisional rent has not been disputed. The landlady claims that the petitioner's father was inducted as a tenant and after his father's death, the petitioner continues to be in possession of property as tenant without payment of rent.



10. Moreover, now the question that remains to be considered is with regard to restoration of possession particularly when the petitioner has been dispossessed. The petitioner has filed a suit for grant of an injunction. He shall have the liberty to amend his plaint seeking relief of possession which shall be decided by the court without being influenced by the observations made by the Rent Controller, which is a court of limited jurisdiction.

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

12. Dismissed.

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

(ANIL KSHETARPAL)
JUDGE

January 07, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No