

(1984) 09 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3059 of 1983

Amar Chand Sohal and another

APPELLANT

Vs

Jasdev Singh

RESPONDENT

Date of Decision: Sept. 20, 1984

Citation: (1984) 2 RCR(Rent) 502

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: M.L. Sarin, for the Appellant; Iqbal Singh Bajwa, for the Respondent

Final Decision: Allowed

Judgement

J.V. Gupta, J.

This is landlords' petition whose ejectment application has been dismissed by both the authorities below.

2. The landlords sought the ejectment of the tenet from the residential building by filing the ejectment application on September 25, 1980. The ejectment was sought primarily on the ground that a portion of the building had been sublet by the tenant to one Lachhman Dass and that the landlords required the precise for their own use and occupation. The tenant denied the averments made in the eviction petition and contested the same. It was pleaded that no portion of the property had been sublet to Lachhman Dass, as alleged. According to him, the said Lachhman Dass was his relation and had been coming to him off and on and stayed with him, and that it did not amount to subletting. The learned Rent Controller found against the landlords on both the counts and dismissed the ejectment application. In appeal, the learned Appellate Authority affirmed the said finding of the Rent Controller and, thus, maintained the order dismissing the eviction application. Dissatisfied with the same, the landlords have filed this revision petition in this Court.

3. The Learned Counsel for the Petitioners contended that it has been amply proved on the record that the tenant had sublet the premises to the said Lachhman Dass,

R.W. 3, and that the findings of the authorities below, in this behalf, are wrong and misconceived.

4. After hearing the Learned Counsel for the parties and going through the relevant record. I find force in this contention.

5. Lachhman Dass, the alleged sub-tenant, appeared as R.W. 3. He admitted that he moved an application dated May 12, 1980, Exhibit A 3, to the District Food and Supplies Officer. Hoshiarpur, for making the change of his address from the building, in question, to the one where he was residing at Canal Colony, Hoshiarpur. He has further admitted that he had been drawing the rationed articles on the address of the house, in dispute. He has also admitted that he had been drawing the rations on that address for three or four years. Not only that, he has also admitted that he had given the said address to his department also as he was entitled to draw house rent allowance from the Department. Surprisingly enough, he further stated that he did not remember if he had been drawing house rent from his department showing his residence in the house, in dispute. According to him, he had been drawing house rent allowance from the very beginning on the basis of fictitious rent receipts. According to the learned Appellate Authority, this statement of Lachhman Dass, R.W. 3, is against his interest and could entail his prosecution and removal from service. So, he was unlikely to make the same, if it was not true. He being a relation of the tenant, it is no wonder if for sherry drawing rent from the department he would have created the said evidence of his residence in the building in question without his having actually resided therein. This approach of the Appellate Authority is wholly wrong, illegal and misconceived. Once it is found that Lachhman Dass, the alleged sub-tenant was drawing his rations by giving the address of the house, in dispute, and had also been realising the house rent allowance from the department, it is a clear case of subletting. In that situation, it was for the tenant to prove that Lachhman Dass, the sub-tenant never occupied the premises, in dispute, and that whatever he did, he did at his own instance. Nothing has been stated by the tenant in this behalf while appearing as R. W. 4; rather he has admitted that Lachhman Dass was his relation. He has stated that the brother-in-law of his brother is married to his sister and that the said marriage was arranged by him. On these facts, it could not be held that the landlords failed to prove the ground of subletting by the tenant. The facts proved on the record, speak for themselves. It being a clear case of subletting, the tenant was liable to be ejected from the demised premises. In view of this finding the other ground that the landlords bona fide required the premises for their own use and occupation need not be gone into.

6. Consequently, this revision petition succeeds and is allowed. The orders of the authorities below are set aside and eviction order is passed against the tenant with costs. However, the tenant is allowed two months' time to vacate the premises; provided all the arrears, if any and the advance rent for two months, are deposited

with the Rent Controller within one month and he further gives an undertaking, in writing, there that he will vacate the premises and hand over the possession thereof to the landlords after the expiry of the said period.