

(2002) 12 P&amp;H CK 0034

## High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3293 of 1983

Sant Lal

APPELLANT

Vs

Amar Nath and Hardayal Arora

RESPONDENT

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**Date of Decision:** Dec. 4, 2002**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 6 Rule 17
- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 1(3), 15(5)

**Hon'ble Judges:** J.S. Khehar, J**Bench:** Single Bench**Advocate:** I.S. Balhara, for the Appellant; O.P. Sharma, for the Respondent**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

J.S. Khehar, J.

The respondent-landlord filed an ejectment petition against Hardayal allegedly his tenant and Sant Lal allegedly his sub-tenant on 13.9.1980. Primarily dispute between the parties during the course of the present litigation has been in respect of relationship of the landlord and tenant between the parties and on the issue of sub-letting. Both these issues were emphatically contested by the parties. The Rent Controller on 20.8.1982 returned a finding on both the issues in favour of the respondent - landlord Amar Nath. It was concluded that there was relationship of landlord and tenant between Amar Nath and Hardayal. The Rent Controller also arrived at the conclusion that the premises had been sub-let by Hardayal to Sant Lal.

2. Aggrieved with the conclusions drawn by the Rent Controller in the order dated 20.8.1982, the sub-tenant i.e. Sant Lal preferred an appeal before the Appellate Authority. The Appellate Authority, by an order dated 31.10.1983 concurred with the conclusions drawn by the Rent Controller. The instant petition has been filed by the petitioner - sub-tenant Sant Lal in order to challenge the concurrent findings

recorded by the Courts below.

3. I have heard learned counsel for the parties.

4. In so far as relationship of landlord and tenant is concerned the conclusion drawn by the Courts below has been accepted by the learned counsel for the petitioner Sant Lal. Likewise, the conclusion drawn by the Courts below on the issue of sub-tenancy created in favour of Sant Lal by Hardayal has also been accepted. The solitary contention advanced by the learned counsel for the petitioner - sub-tenant Sant Lal is that the petitioner - sub-tenant had moved an application under Order 6 Rule 17 of the CPC before the Appellate Authority seeking to amend the written statement filed by him before the Rent Controller. Through the aforesaid application, the petitioner - sub-tenant wished to introduce the factual position that the shop in question was built on 4.8.1978. By introducing the aforesaid factual position it was proposed to contest the jurisdiction of the Rent Controller as well as the Appellate Authority to entertain the ejectment application. Learned counsel for the petitioner - sub-tenant has invited the attention of this Court to Section 1(3) of the Rent Act which excludes the applicability of the provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973 to all buildings, construction of which was completed on or after the commencement of the aforesaid Act, for a period of ten years from the date of its completion.

5. The application preferred by the petitioner - sub-tenant under Order 6 Rule 17 of the CPC was declined by the Appellate Authority. Reasons for declining the said application have been narrated in Para 13 of the order passed by the Appellate Authority. The question which arises for consideration is whether the said application was rightfully dismissed. Having heard learned counsel for the parties. I am satisfied that the conclusions drawn by the Appellate Authority call for no interference. In this behalf, it would be pertinent to mention that the petitioner - sub-tenant had been raising all kinds of technical pleas so as to delay finalisation of the proceedings initiated by the respondent - landlord. The relationship of landlord and tenant between Amar Nath and Hardayal was itself made the subject matter of controversy, although, the relationship of landlord and tenant between the aforesaid parties stood established on the basis of decree of a Civil Court dated 20.4.1979 passed in Civil Suit No. 236 of 1979 between the said parties. On the aforesaid dispute raised on behalf of the petitioner - sub-tenant, the Courts below clearly expressed their dissatisfaction, about the tactics adopted by the tenant/sub-tenant. A party guilty of raising false and incorrect pleas, deserves no indulgence whatsoever. Be that as it may, there is hardly any justification to accept the application filed by the petitioner - sub-tenant for amendment of the written statement. It is evident that the ejectment application out of which the present civil revision has emerged was filed on 8.9.1980. The claim made in the application for amendment is that the building in question was constructed only on 4.8.1978 i.e. a period just about two years preceding the date of filing of the ejectment petition. All

these facts were pointedly to the knowledge and notice of the tenant/sub-tenant. If the said factual position had been correct, the same being obviously in the notice of the petitioner - sub-tenant would have essentially been raised as the first defence. Moreover, there is cogent evidence on the record of this case to establish that the premises was already in occupation on 1.1.1978. In such circumstances, there can be hardly any justification on the part of the petitioner - sub-tenant to assert that the premises in question was constructed only on 4.8.1978. A perusal of the order of the Appellate Authority also reveals that a senior advocate had been representing the petitioner - sub-tenant. In view of the above, I affirm the conclusion drawn by the Appellate Authority that the filing of the application under Order 6 Rule 17 of the CPC by the petitioner - sub-tenant is yet another tactic in order to prolong the litigation between the parties in the same manner in which he successfully prolonged the litigation by denying the relationship of landlord and tenant. Moreover, there is no cogent evidence on the record of this case to establish that the premises was built/constructed on 4.8.1978. In such circumstances, there can be hardly any justification on the part of the petition-sub-tenant to assert that the premises in question was constructed only on 4.8.1978.

6. For the reasons recorded above, I find no merit in this petition. The same is, accordingly, dismissed.