

(1993) 11 P&H CK 0018

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 2910 of 1989 and C.M. No. 7863-CII of 1993

Ajanta Co-Educational High
School (Recognised)

APPELLANT

Vs

Shri Karam Chand

RESPONDENT

Date of Decision: Nov. 17, 1993

Acts Referred:

- East Punjab Urban Rent Restriction Act, 1949 - Section 13, 15(5)

Citation: (1994) 106 PLR 347 : (1994) 1 RCR(Rent) 344

Hon'ble Judges: V.K. Jhanji, J

Bench: Single Bench

Advocate: B.R. Mahajan, for the Appellant; H.C. Gupta, for the Respondent

Final Decision: Allowed

Judgement

V.K. Jhanji, J.

This is landlord's revision petition directed against the order of the appellate Authority whereby order of ejectment passed by the Rent Controller was reversed and in consequence thereof, ejectment petition filed by the landlord was dismissed.

2. In brief, the facts are that Ajanta Co-Educational High School, Amritsar, through Smt. Swaran Kapur, (hereinafter referred to as "the school") vide sale-deed dated 9.1.1979, registered on 14.2.1979, purchased double storeyed building which was in occupation of two tenants, namely Hari Chand who was a tenant on the ground floor at the rate of Rs. 5/- per month and Karam Chand (respondent herein) who was a tenant at the rate of Rs. 91/- per month. The school through Swaran Kapur, its Manager, filed two ejectment petitions for ejectment of both the tenants in the year 1983. Ejectment was sought on the ground of non-payment of rent as well as on the ground of personal necessity. The tenants denied the relationship of landlord and tenant. The other grounds of ejectment were also denied. The arrears of rent were also not tendered on the first date of hearing. The Rent Controller vide order dated

29.7.1987 allowed both the ejectment petitions and directed the tenants to hand over the vacant possession of the building to the school. Hari Chand, tenant, filed an appeal against this order, which was dismissed by the appellate Authority. However, the appeal filed by Karam Chand, tenant, was allowed by the appellate Authority. The order of the appellate Authority being impugned by the school in the present revision petition. The appeal was allowed by the appellate Authority on the ground that the sale-deed in favour of the school has not been proved on the record and also that Swaran Kapur has not been proved to be the Manager of the School.

3. Having heard learned counsel for the parties at some length, I am of the view that the revision petition deserves to succeed. The school in its ejectment petition had specifically averred that the school had purchased the property vide sale-deed which was registered on 14.2.1979 and by operation of law, respondent has become tenant under the school. The averment with regard to purchase was not specifically denied by the respondent. In absence of specific denial, it was not necessary for the school to prove the sale-deed in question. However, the school as an abundant caution examined the deed-writer, Harbhajan Lal, who had scribed the sale-deed. He in his statement stated that he scribed the sale-deed which was read over to the attesting witnesses. During the course of his statement, sale-deed was got exhibited and no objection whatsoever was raised at that stage. An objection was raised when Swaran Kapur was examined as witness and that objection was only with regard to mode of proof of the document, and that too when it was to the knowledge of the respondent that the document had already been exhibited at the time when the deed-writer made his statement. In my view, objection with regard to mode of proof of document was not open to the respondent after the document had been, exhibited. Counsel for the respondent can draw no assistance from the judgments in. the [The Collector, Raigarh Vs. Harisingh Thakur and Another,](#) and P.G.D. Ombrain and Ors. etc. v. Collector of Kamrup Gauhati AIR 1980 Gau 55 cited by him as the same are clearly distinguishable on the facts of the present case. The other objection with regard to Swaran Kapur being not proved to be the Manager of the school is also not sustainable because in the title of the petition, Swaran Kapur has been described as the Manager. In the written statement, the only objection was that the petition had not been filed by a duly authorised person. It was no-where stated that Swaran Kapur is not the Manager. The contents of the sale-deed prove that the property in dispute was purchased by Swaran Kapur as Manager of the school. Respondent in his own statement has also not stated that Swaran Kapur is not the Manager of the school, and for that matter, the finding of the appellate Authority on this score is set aside.

4. For the reasons recorded above, the revision petition is allowed and order of the appellate Authority is set aside and that of the Rent Controller is restored with no order as to costs. Tenant is allowed two months" time to vacate the premises provided he pays/deposits the entire arrears of rent within one month from today.