
(1984) 08 P&H CK 0012

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 801 of 1984

Amar Nath and others

APPELLANT

Vs

Narain Das

RESPONDENT

Date of Decision: Aug. 30, 1984

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 6 Rule 17

Citation: (1985) 1 RCR(Rent) 82

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

Bench: Single Bench

Advocate: Gurdial Singh, for the Appellant; R.L. Sarin and Sh. Sukhdev Singh, for the Respondent

Final Decision: Dismissed

Judgement

J.V. Gupta, J.

This is landlord's petition whose ejectment application has been dismissed by both the Courts below.

2. The premises in dispute is rented land which was given on rent vide rent note dated 1.7.1974, Ex R-16. The landlords sought the ejectment of their tenant Narain Dass on various grounds, including the ground of change of user and bonafide requirement of the tenancy premises for their own business and personal use and occupation. All these allegations made in the ejectment application were controverted by the tenant. The learned Rent Controller vide his order dated 25.4.1981, dismissed the ejectment application, as all the grounds taken by the landlords were negated. In appeal, the landlords moved an application under Order 6 Rule 17 of the CPC for the amendment of their ejectment application. They also filed an application under Order 41 Rule 27 of the Code for allowing additional evidence. The learned Appellate Authority, vide its order dated 30.3.1983, framed three additional issues No. 1-A, 1-B and 1-G and directed the Rent Controller to allow the parties to

produce evidence on these issues and after recording evidence, the report be sent to the Appellate Authority. In the report sent by the Rent Controller, all these issues were decided against the landlords. However, on 5.5.1983 the landlords moved an application u/s 151 of the Code, alleging that no orders had been passed as yet on their application filed earlier for amendment of ejectment application. So, it was requested that necessary orders be passed thereon. The learned Appellate Authority found that the said application was already dismissed, as not pressed, vide order dated 30.3.1983 the day the additional issues were struck. After the receipt of the report, the Appellate Authority affirmed the findings of the Rent Controller on all the grounds of ejectment pleaded by the landlords. Ultimately, the appeal was dismissed vide order dated 29.11.1983. Dissatisfied with the same, the landlords have filed this revision petition in this Court. In this petition, two grounds of ejectment have been agitated on behalf of the landlords; the first is that the rented land was given on rent for doing the fuel work; whereas now the Respondent-tenant was doing coal business and it being a change of user, the tenant was liable to ejectment and secondly, the landlords bonafide required the rented land for doing their own business. According to the Learned Counsel for the Petitioners, the findings of the authorities below in this behalf are wrong and illegal. It was maintained that since the application for amendment of the ejectment application was not allowed, the landlords could not lead evidence to prove their allegations.

3. After hearing the Learned Counsel for the parties and going through the relevant evidence on the record. I do not find any merit in this petition. Rent-note Ex. R-16 dated 1.7 1974 is on the record. From a perusal of the said rent note, it is evident that no specific purpose for which the rented land was given on lease has been stated therein. Moreover, the landlords issued notice; Ex A-2 dated 22.8 1979. According to the said notice, the premises were let out for carrying on fuel and wood business. In any case, in the absence of any particular purpose, it could not be successfully argued that the premises were rented out only for fuel business. However, it appears that the tenant is doing coal-business therein. Under these circumstances, it could not be successfully argued that there was any change of user for which the tenant was liable for ejectment.

4. As regards the bonafide requirement for doing their own business on the rented land, there is no cogent evidence on the record as to the particular business which the landlords intend to do so. Except the bald statement of the landlord Amar Nath, there is absolutely no other evidence. Apart from that in the notice Ex. A-2, the landlords never took the plea that they intend to start any business and for that purpose they required the tenancy premises for their own use and occupation. In the statement of the landlord, Amar Nath (AW-1), he has admitted in cross-examination that he did suffer from Asthama for the last 18 years and he stopped his business about 10 years ago. This statement was made on 27.3.1981. In any case, the two authorities have found that they have failed to prove their bonafide requirement of the tenancy premises in question. I do not find any illegality or infirmity in the said

findings as to be interfered with in revision. In the result, the petition fails and is dismissed with costs.