

(1985) 10 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No 2042 of 1978

Vijay Kumar

APPELLANT

Vs

Muni Lal Jain and Others

RESPONDENT

Date of Decision: Oct. 18, 1985**Citation:** (1986) 1 RCR(Rent) 156**Hon'ble Judges:** J.V. Gupta, J**Bench:** Single Bench**Advocate:** H.L. Sarin and Mr. R.L. Sarin, for the Appellant; R.S. Ahluwalia, for the Respondent

Judgement

J.V. Gupta, J.

This is landlords petition in whose favour eviction order was passed by the Rent Controller but was set aside in appeal.

2. The landlord sought the ejectment of his tenant Muni Lal from the premises in dispute which consists of two rooms and a verandah which forms part of a residential house. The ejectment was sought on the ground that the premises were let out to Muni Lal with effect from 1st September, 1966 but he had sublet it to Bimal Kumar and Mela Ram, Respondent Nos. 2 and 3. The other ground taken was that the tenant was in arrears of rent with effect from 1st September, 1968. Application for ejectment was filed on 20th May, 1974. The said tenant Muni Lal did not contest the application. Bimal Kumar alone, the alleged sub-tenant, contested the same. It was pleaded by him that he was the tenant throughout the premises in dispute, and Muni Lal was never the tenant nor he ever occupied the premises. As regards the arrears of rent, he tendered the same from 15th August, 1974 to 15th January 1975. Prior to the said period, the rent was said to have been paid to the landlord. The learned Rent Controller found that Muni Lal was in arrears of rent and he had also sublet the premises to Respondent Nos. 2 and 3. Consequently, eviction order was passed. In appeal filed by Bimal Kumar, the learned Appellate Authority reversed the said finding of the Rent Controller. It came to the conclusion that Bimal Kumar was

not a sub-tenant as alleged, but was a tenant direct under the landlord in the portion in dispute. As regards the arrears of rent it was observed that the same were tendered but the landlord did not accept the same. Consequently, eviction order was set aside. Dissatisfied with the same, the landlord has filed this petition in this Court.

3. I learned counsel for the Petitioner contended that no finding was given by Appellate Authority as to whether the tenant was in arrears of rent with effect from 1st September, 1968 to 15th August, 1974 or not. According to the learned Counsel, the Rent Controller found that the tenant did not lead any evidence to prove the payment of rent for that period. Thus, argued the learned Counsel, the tenant was liable to ejectment on that ground alone.

4. After hearing the learned Counsel for the parties and going through the relevant evidence on record I do not find any merit in this petition. Admittedly, the landlord is residing in the other portion of the house Rent was being claimed from 1968. The application for ejectment was filed about six years thereafter, i. e on 20th May, 1974. Apart from that, the landlord himself did not appear in the witness box. His son, as his attorney, appeared as A.W. 6. The rent was being paid to the landlord, according to the tenant. Thus, keeping in view the facts and circumstances of the case it could not be held that the tenant was in arrears of rent from 1st September, 1968. Consequently, the petition fails and is dismissed with no order as to costs.