

(1993) 07 P&H CK 0025

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 2142 of 1988

Nirmal Singh

APPELLANT

Vs

Ram Sarup

RESPONDENT

Date of Decision: July 6, 1993

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- East Punjab Urban Rent Restriction Act, 1949 - Section 13
- Evidence Act, 1872 - Section 116

Citation: (1993) 104 PLR 483 : (1993) 2 RCR(Rent) 484

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

Bench: Single Bench

Advocate: R.L. Batta and S.K. Pabbi, for the Appellant; R.P. Bali, for the Respondent

Final Decision: Dismissed

Judgement

V.K. Jhanji, J.

Ram Sarup (respondent herein) sought ejectment of his tenant, Nirmal Singh (Petitioner herein). The Rent Controller vide his order dated 19-7-1978, ordered ejectment of the tenant. This order was affirmed in appeal. The tenant impugned the order of ejectment in revision before this Court, but the revision petition was also dismissed. In execution, an objection was raised by the tenant that order cannot be executed as the same had become infructuous and illegal. The challenge to the order was that the landlord was no more the owner of the property. The Government of Punjab, Rehabilitation Department, is the owner of the property in dispute. To prove this, order of the Chief Settlement Commissioner dated 14-11-1979, Exhibit OW-3/3, was brought on the record. Vide this order, allotment of the site in favour of the landlord was cancelled. The appeal filed against this order was dismissed by the Financial Commissioner. The order of the Financial Commissioner was challenged by way of writ petition, but that too was dismissed by

this Court. The orders passed by the Chief Settlement Commissioner, Financial Commissioner and dismissal of the writ petition, were held to be of no consequence as the executing Court was of the view that the tenant is not entitled to deny the relationship of his landlord as against Ram Sarup. Consequently, objection petition was dismissed. Order dismissing the objection petition is being impugned in the present revision petition.

2. Learned counsel for the petitioner contended that order of ejectment against the petitioner is not executable as allotment of the house in favour of the respondent has already been cancelled. He cited a judgment of this Court in Ram Sarup and Ors. v. Kasturi Lal 1981 (1) R. L. R. 148 to contend that the petitioner was competent to make objections against his anticipated dispossession.

3. On the other hand, learned counsel for the respondent contended that the petitioner is estopped from disputing the relationship of landlord and tenant. He is not entitled to restrain the respondent from executing the order of ejectment, which was passed by a Court.

4. After hearing learned counsel for the parties at length, I am of the view that there is no merit in this revision petition. It is not disputed before me that Nirmal Singh, tenant, took the premises on rent from Ram Sarup and once that is so, there is clearly a relationship of landlord and tenant between the parties and by virtue of Section 116 of the Indian Evidence Act, the tenant is estopped from disputing the ownership of his landlord. The rights of the parties have to be determined vis-a-vis relationship of landlord and tenant and if the tenant takes possession of the premises as such, he is bound to return possession to his landlord and cannot be allowed to set up a title in himself or in a third person. Order cancelling allotment in favour of Ram Sarup would be of no assistance to the petitioner. Vide the order of the Settlement Commissioner, allotment was cancelled because it was found that Ram Sarup had sub-let the premises to the petitioner which was against the terms of the allotment. Vide this order, petitioner has not been declared to be the owner. Even otherwise, once the petitioner was put in possession as tenant, he cannot dispute the title of his landlord without surrendering possession. The executing Court rightly dismissed the objection petition filed by the petitioner and therefore, the order passed by it calls for no interference.

5. Resultantly, this revision petition is dismissed but with no order as to costs.