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High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 2162 of 2013 (O and M)

Raj Kumar Batra	APPELLANT
Vs	
Prem Lata Arora	RESPONDENT

Date of Decision: July 30, 2013

Hon'ble Judges: Jaswant Singh, J

Bench: Single Bench

Advocate: Vaibhav Narang, for the Appellant;

Final Decision: Dismissed

Judgement

Jaswant Singh, J.
Petitioner (tenant) is in revision against the concurrent findings returned by both the courts below, whereby the eviction petition filed by landlord-Tara Chand (since deceased) and being represented by Prem Lata Arora (respondent herein) has been allowed on the ground of non payment of rent by the learned Rent Controller, Amritsar vide its order dated 14.03.2009 and the findings thereof have been affirmed by the learned Appellate Authority, Amritsar vide its judgment dated 17.01.2013. In brief, facts of the case are that predecessor in interest of respondent (landlady) had sought eviction of the present petition on the ground of non payment of arrears of rent at the rate of Rs. 1000/- per month w.e.f. 1.4.1999.

2. Upon notice, petitioner (tenant) denied the relationship of landlord and tenant and stated that he was inducted as tenant by Krishnawati on the ground floor but no rent was ever paid to her ever. It was stated that he was never inducted as a tenant in the property because he is a son and therefore, in possession of the property in such capacity.

3. Replication was filed wherein the entire contents of the petition were reiterated and those of the written statement were denied.

4. From the pleadings of the parties issues were framed. Both sides led evidence and after appreciating their evidence, learned Rent Controller allowed the eviction petition and

findings thereof were affirmed by the learned Appellate Authority, Amritsar. Hence the present revision.

5. I have heard learned Counsel for the petitioner (tenant) and have gone through the case file carefully with his able assistance.

6. The sole argument raised by learned Counsel for the petitioner (tenant) is that since petitioner is a co-owner in the property in question being son of the original owner namely Krishnawati, therefore, no eviction can be ordered against the co-owner.

7. After hearing learned Counsel for the petitioner (tenant) and perusing the record carefully, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed. It is concurrently proved on record that the petitioner was a tenant from the receipts Ex. A-5 and Ex. AW-3/3, which shows that he used to pay rent to the tune of Rs. 2700/- per month as rent to his mother Krishnawati. As per receipt Ex. A-5 petitioner Raj Kumar Batra (tenant) had paid rent w.e.f. April 1998 to March 1999. Furthermore, rent receipt Ex. AW-3/4 shows that the rent w.e.f. April 1999 to March 2000 was paid by Raj Kumar Batra to his mother landlady Krishnawati at the rate of Rs. 2700/- per month. It is also not in dispute that the petitioner (tenant) has been getting above mentioned receipts from his mother and claiming benefit in the income tax returns by showing the same as rent paid to his mother. In such a scenario, it cannot be said that the petitioner is not a tenant.

8. As far as the plea taken by the learned Counsel for the petitioner (tenant) to the effect that he is a co-owner, the said fact cannot be gone into in rent proceedings, especially when a Will has been propounded by Tara Chand (original applicant/landlord) executed by his wife Krishnawati. Said Tara Chand is none else than father of petitioner (tenant) and who after his death has bequeathed his entire property including demised premises to his daughter to the exclusion of his tenant-son. Even otherwise, the status of the petitioner as tenant even upon becoming a part owner would not change. Furthermore, in rent proceedings, the only thing that has to be determined by a Rent Controller is as to whether the relationship of landlord and tenant exists among the parties and question of title cannot be gone into. In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.