

(2010) 05 P&H CK 0303

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 3784 of 2010

Jasbir Singh and
Others

APPELLANT

Vs

Super Electro Films
Ltd. and Others

RESPONDENT

Date of Decision: May 28, 2010

Acts Referred:

- Constitution of India, 1950 - Article 227
- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 6A

Citation: (2010) 159 PLR 723

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

Defendants have filed the instant revision petition under Article 227 of the Constitution of India having remained unsuccessful in both the courts below.

2. Respondents filed suit against the petitioners. Along with suit, plaintiffs moved application for temporary injunction. Plaintiffs' case is that defendant No. 1 M/s Associated Industries is landlord/owner of the disputed premises No. 22-B, Industrial Area, NIT Faridabad. Plaintiffs No. 1 and 2 have taken on lease 6800 sq. ft. area and 7600 sq. ft. area respectively on the ground floor, whereas plaintiff No. 3 has taken on lease 9892 sq. ft. area on first floor, vide lease deeds dated 18.03.2002. The plaintiffs paid rent through cheques, but defendant No. 1 did not issue receipts. Plaintiffs, therefore, deposited rent in the Court of Rent Controller u/s 6-A of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for different periods. Defendants No. 1 and 2 also filed eviction petitions against plaintiffs No. 1 and 3. Defendant No. 2 Baljit Singh is partner/Director of defendant No. 1. The said eviction petitions were pending before the

Rent Controller. The plaintiffs continued to be in possession of tenancy premises as statutory tenants after expiry of lease periods. However, defendants hired services of gunda elements and attacked the tenancy premises on 07.01.2008 at about 08:00 P.M., when the premises were lying closed. Watchman Ram Kishan was illegally detained and threatened to be killed. He managed to escape and informed the plaintiffs telephonically. One Mohammad Arif came with JCB Crane and 4-5 trucks to the spot armed with deadly weapons. Locks were broken. Goods worth Rs. 44,00,000/- were removed and taken away to some other place. The defendants demolished entrance wall and staircase of the tenancy premises and also merged the same into other premises which were in possession of defendants No. 2 and 3 and also illegally demolished six toilets and placed generators by blocking passage. They also demolished front portion room and erected a wall and gate illegally. The factory gate was also locked to stop entry of plaintiffs and their men.

3.. The defendants admitted that plaintiffs were tenants in the disputed premises and there was litigation between the parties for the last several years. However, the plaintiffs have stopped carrying out industrial activity in the premises and were simply paying the rent. The plaintiffs ceased to occupy the premises, but were simply retaining the possession thereof. The plaintiffs have shifted to some other place. The defendants agreed to compensate the plaintiffs for surrender of tenancy premises and the plaintiffs agreed to the said bargain and in lieu of compensation, the plaintiffs surrendered possession of the disputed premises to the defendants and therefore, the defendants are in exclusive possession of the disputed premises.

4. Learned Civil Judge (Senior Division), Faridabad, vide order dated 22.08.2008 (Annexure P-4), allowed plaintiffs' application for temporary injunction and directed the defendants to open the lock of the gate of the disputed premises and to allow the plaintiffs to carry on their business activities in the disputed premises till disposal of the suit. Defendants were also restrained from causing any interference, obstruction in smooth running of business of plaintiffs in the disputed premises till the disposal of the suit. Appeal preferred by the defendants against the said order has been dismissed by learned Additional District Judge, Faridabad vide impugned judgment dated 20.11.2009 (Annexure P-6). In the instant revision petition, the defendants have challenged said judgment dated 20.11.2009 (Annexure P-6) passed by the appellate court.

5. I have heard learned Counsel for the petitioners and perused the case file.

6. At the outset, it has to be noticed that defendant No. 1 in the suit is M/s Associated Industries through its partner Sardar Baljit Singh. However, defendant No. 1 is not party to the instant revision petition. Defendant No. 1 is the landlord and the main defendant. On the other hand, instead of defendant No. 1, Baljit Singh has been arrayed as petitioner No. 3 as Director of M/s Associated Industries and Baljit Singh, in his individual capacity, impleaded as defendant No. 2 in the suit, is also petitioner No. 2 in the revision petition. It is thus apparent that the revision petition has not been filed by defendant No. 1 and

orders of the courts below have attained finality qua defendant No. 1.

7. In addition to the aforesaid, only appellate judgment has been challenged in the revision petition and order Annexure P-4 passed by the trial court has not been challenged.

8. Even on merits, the petitioners have a hopeless case. Learned Counsel for the petitioners vehemently referred to the report of Local Commissioner (Annexure P-3) and contended that there was no sign of any activity of manufacturing. Some machines in the Assembly Hall had been dismantled. Some machines were completely non-functional. The Local Commissioner also inferred that fire extinguishers, drums, GI pipe scrap, PVC partition wall and strips were lying on the floor giving a look as if the same were in the process of being shifted.

9. Nothing favourable can be inferred from the aforesaid observations of the Local Commissioner in favour of the defendants petitioners. It is the admitted case of the defendants that plaintiffs were in possession of the disputed premises as tenants. The defendants' version is that the plaintiffs voluntarily surrendered possession of the tenancy premises to the defendants in lieu of some compensation. However, there is not even an iota of material on record to substantiate this plea of the defendants. On the other hand, admittedly there was litigation between the parties. In view thereof, it would be most foolish to accept the defendants' plea that the plaintiffs voluntarily surrendered possession of the tenancy premises after accepting some compensation, without there being any writing regarding the alleged settlement or surrender of possession. In fact, defendants' plea in this behalf strengthens the case of the plaintiffs that the defendants wanted to take forcible possession of the tenancy premises and demolished a part thereof by sheer use of brute force. Courts are there to protect the victim against such kind of use of force by any person. The courts below have assigned sound reasons for granting temporary injunction to the plaintiffs. The defendants used crane and other equipments to demolish a part of the tenancy premises and also allegedly to take away goods of the plaintiffs from the tenancy premises. Use of force cannot be allowed to dispossess a tenant. Defendants used muscle power to dispossess the plaintiffs illegally from the disputed premises and to subvert the rule of law. Rule of law is the basic feature of one Constitution. Subversion of rule of law has to be undone by the Courts. Courts are guardians of the rule of law and protectors of persons, who become victims at the hands of oppressors and violators of law by use of force and muscle power, as has prima facie happened in the instant case. Plaintiffs need protection from Courts against highhandedness of the defendants. Consequently, temporary injunction has been rightly granted directing the defendants to open the lock of the gate of the tenancy premises, so that the plaintiffs may continue to occupy and use the same.

10. The instant revision petition is sheer abuse of the process of law. The defendant-petitioners have no case at all. They have violated the law by use of force. The plaintiffs' version is prima facie fully substantiated on record. The plaintiffs could not be

thrown away from the tenancy premises by use of force.

11. For the reasons recorded herein above, I find no merit in the instant revision petition, which is completely frivolous and deserves to be dismissed with heavy and exemplary cost, to curb such highhandedness by the petitioners themselves and to protect the rule of law. Accordingly, the instant revision petition is dismissed in limine with exemplary cost of Rs. 50,000/- to be deposited with the Registry of this Court. If the cost amount is not deposited within one month, the revision petition shall be listed for this purpose.