

(2012) 04 P&H CK 0187

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 5679 of 2011

Bajrang Lal

APPELLANT

Vs

Rattan Lal @ Vipul and others

RESPONDENT

Date of Decision: April 24, 2012

Acts Referred:

- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 15(6)

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

Bench: Single Bench

Advocate: Vinod S. Bhardwaj, for Mr. Sandeep Punchhi, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

Tenant Bajrang Lal has filed this revision petition u/s 15(6) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short, the Act), assailing judgment dated 30.07.2011 passed by learned Appellate Authority (under the Act), Sirsa thereby ordering ejection of the tenant-petitioner from the demised shop. Respondent No. 1 herein Rattan Lal @ Vipul (hereinafter referred as landlord) filed ejection petition u/s 13 of the Act against the petitioner-tenant and against proforma respondents No. 2 and 3 alleged subtenants. It was pleaded that the landlord has become owner of the demised shop by way of family settlement with his father Pawan Kumar who was the original landlord and had let out the demised shop to the tenant-petitioner. Eviction was sought on two grounds i.e. subletting of the demised shop by the tenant-petitioner to respondents No. 2 and 3 and on the ground of bonafide necessity of the landlord.

2. The petitioner-tenant and the sub-tenants controverted the averments of the landlord. Relationship of landlord and tenant between the parties was denied. It was pleaded that tenant-petitioner had taken the shop on rent from landlord's father Pawan Kumar who continues to be the landlord. It was pleaded that respondent No.

2 was only servant of the tenant-petitioner whereas respondent No. 3 had attended the shop for about three months to learn the business i.e. as apprentice and had since left the shop. Ground of personal necessity of the landlord was also controverted.

3. Learned Rent Controller, Sirsa vide judgment dated 28.01.2009 dismissed the ejectment petition holding that relationship of landlord and tenant between the parties has not been proved and both grounds of subletting and personal necessity of the landlord have also not been proved. However, Appellate Authority, Sirsa vide impugned judgment dated 30.07.2011 allowed the appeal preferred by landlord and held the relationship of landlord and tenant between the parties to be proved and also held both grounds of subletting and personal necessity of the landlord to be proved and has, therefore, ordered ejectment of the tenant and alleged sub-tenants from the demised shop. Feeling aggrieved, only tenant has filed this revision petition.

4. I have heard learned counsel for the petitioner and perused the case file.

5. Learned counsel for the tenant-petitioner contended that relationship of landlord and tenant between the parties is not proved because admittedly the shop was let out by landlord's father Pawan Kumar to the tenant-petitioner and, therefore, tenant petitioner is estopped from admitting respondent No. 1 herein as landlord of the shop. Reliance in support of this contention has been placed on judgment of Hon'ble Supreme Court in the case of R.V.E. Venkatachala Gounder Vs. Arulmigu Visweswaraswami and V.P. Temple and Another . The contention cannot be accepted. It has come in evidence that respondent No. 1 herein has been recorded as owner of the demised shop in municipal record. It has also come in evidence that the tenant-petitioner has been paying rent to respondent No. 1 herein for the demised shop by way of cheques. This documentary evidence is sufficient to prove the relationship of landlord and tenant between the parties. Contention raised by counsel for the petitioner on the basis of judgment of Hon'ble Supreme Court in the case of R.V.E. Venkatachala Gounder (supra) cannot be accepted because in the instant case, Pawan Kumar the original landlord has not disputed that now respondent No. 1 herein is the landlord. Moreover, the petitioner-tenant himself started paying rent to respondent No. 1 herein by way of cheques. Consequently observations of Supreme Court in the case of R.V.E. Venkatachala Gounder (supra) go against the tenant-petitioner because by paying rent to respondent No. 1 herein, tenant-petitioner has admitted the relationship of landlord and tenant between them. Consequently the finding of the Appellate Authority that there is relationship of landlord and tenant between the parties i.e. petitioner and respondent No. 1 herein, is fully justified by the documentary evidence on record. The said finding is not shown to be suffering from any illegality, impropriety or jurisdictional error so as to call for interference in exercise of revisional jurisdiction.

6. As regards grounds of personal necessity, counsel for the petitioner contended that landlord was only student when the ejectment petition was filed and, therefore, he does not require the demised shop for his own business and his alleged requirement is not bonafide. It was argued that the landlord has not pleaded that he wanted to separate from his family. Reliance has been placed on judgment of Hon'ble Supreme Court in the case of T. Sivasubramaniam and Others Vs. Kasinath Pujari and Others, and judgment of this Court in the case of Mangat Ram v. Om Parkash and another reported as 1983 (1) RCR (Rent) 30.

7. I have carefully considered the aforesaid contention and judgments. However, I find myself unable to accept the aforesaid contention. The landlord was aged 19 years when he filed the ejectment petition on 21.03.2003 i.e. nine years ago. He is now aged 28 years. By now he has completed his studies. Obviously he has to carry on his occupation for earning his livelihood. He could not be expected to depend on his family throughout his life. Question of separation of the landlord from his family does not arise merely because the landlord wants to carry on his own business in the demised shop. There is no reason to discard the plea taken by the landlord that he needs the disputed shop for carrying on his own business. His need is bonafide. Finding of the Appellate Authority in this regard is fully justified by the evidence on record. There is not even a single circumstance to hold that requirement pleaded by the landlord is not bonafide. Judgments in the cases of T. Sivasubramaniam (supra) and Mangat Ram (supra) are not applicable to the facts of the instant case. Question of necessity of landlord for the demised property is to be determined on facts and circumstances of each case as culled out from the pleadings and evidence in each case. In the instant case, the finding of personal necessity of the landlord for the demised shop as recorded by the Appellate Authority is fully justified by the evidence on record. The said finding is also not shown to be suffering from vice of illegality, impropriety or jurisdictional error.

8. Since ejectment on the ground of personal necessity is being upheld, I am not entering into the contention of counsel for the petitioner regarding ground of subletting also held proved by the Appellate Authority. For the reasons aforesaid, I find no merit in this revision petition, which is accordingly dismissed in limine.