

Lincence No :

2024 LEJ Civil PH 71

HIGH COURTS - PUNJAB AND HARYANA

Bench: HON'BLE MRS. JUSTICE ALKA SARIN

Date of decision: 01/04/2024

CR No.6169 of 2018 (O&M)

Meena Arora ...PETITIONER

Versus

Sudarshan Singh ...RESPONDENT

Legislation:

Section 2(c), 13 of the East Punjab Urban Rent Restriction Act, 1949 (Rent Act).

Subject:

A revision petition challenging the eviction orders passed by the Rent Controller and Appellate Authority under Section 13 of the East Punjab Urban Rent Restriction Act, 1949.

Headnotes:

Landlord-Tenant Dispute – Ejectment under Rent Act – Revision petition by tenant challenging orders for eviction under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 – Landlord claimed bonafide personal necessity for eviction – Tenant disputed landlord's ownership and authority to seek eviction – Tenant's contention that landlord must be the owner rejected – Definition of 'landlord' under Rent Act includes any person entitled to receive rent, whether owner or not – Apex Court precedent cited supporting broader interpretation of 'landlord' – Tenant's admission of landlord-tenant relationship established – Tenant's objection to landlord's status as Sub Power of Attorney holder dismissed – No such plea raised in written statement – Revision petition devoid of merit – Orders of eviction upheld. [Paras 1-15]

Referred Cases:

- Sheela vs. Firm Prahlad Rai Prem Prakash [2002(1) RCR Rent 351]
- K.D. Dewan vs. Harbhajan Singh Parihar [2002 (1) RCR Rent 214]
- Swadesh Kumar Gupta vs. Manohar Lal Gupta [2006 (2) RCR Rent 503]

Representing Advocates:

Mr. Ashok Sehgal for the petitioner.

Mr. Barjesh Mittal for the respondent.

JUDGEMENTALKA SARIN, J.

1. This is a tenant's revision against the orders passed by both the Authorities ordering her eviction under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (Rent Act).
 2. As per the landlord-respondent he is the owner/landlord of the house in question. The tenant-petitioner was inducted as a tenant on the second floor from 01.08.2006 at a monthly rent of Rs.1500/- per month with an increase of 10% every year. The tenancy was oral. It was pleaded that the two children of the petitioner are married and his family has expanded and accommodation with him is insufficient and he needs the accommodation for his personal use to accommodate himself, his children along with their spouses. The ground of non-payment of rent was also raised. The tenant-petitioner contested the ejectment application and filed a written statement taking the plea that the landlord-respondent was not the owner of the property in question, the tenant-petitioner was being pressurized by two persons who were claiming rent from her - one was the landlord-respondent and the other was one Mr. Tirth also known as Harcharan Singh. It was averred that the landlord-respondent had not approached the Court with clean hands and had suppressed material facts and that the ejectment application was a counter blast to a civil suit filed by the tenant-petitioner. respondent which is pending and present petition is bad for non-joinder of necessary parties. No replication was filed.
 3. From the pleadings of the parties the following issues were framed by the Rent Controller :
 1. Whether the respondent is in arrears of rent ? OPP
 2. Whether the petitioner requires the premises in question for his personal use and occupation ? OPP
 3. Whether the present petition is not maintainable ? OPR
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4. Whether the present petition is bad for non-joinder of necessary parties ? OPR

5. Relief.

4. Vide order dated 12.02.2016 the Rent Controller accepted the ejectment application on both grounds and ordered eviction of the tenant-petitioner. The appeal of the tenant-petitioner was dismissed by the Appellate Authority vide order dated 28.08.2018. Hence, the present revision petition.
5. Learned counsel for the tenant-petitioner has contended that both the Authorities have erred in allowing the ejectment application filed by the landlord-respondent who was not the owner of the property in question.

It is submitted that the property in question is owned by one Romesh Manocha who executed a Power of Attorney in favour of Kirpal Singh on 29.10.1986. The said Kirpal Singh thereafter executed a Sub Power of Attorney in favour of the present landlord-respondent on 13.06.1994. On these facts it was argued that the ground of bonafide personal necessity was not available to the landlord-respondent because he was, at best, an attorney of the owner Romesh Manocha and no personal necessity of Romesh Manocha was ever pleaded. Reliance has been placed on a decision of the Hon'ble Supreme Court in Sheela vs. Firm Prahlad Rai Prem Prakash [2002(1) RCR Rent 351] to contend that while seeking ejectment on the ground of bonafide requirement a landlord is required to allege and prove not only that he is a landlord but also that he is the owner of the premises. No arguments were addressed on the point of non-payment of rent.

6. Per contra, learned counsel for the landlord-respondent argued that the scope of a revision petition challenging orders passed under the Rent Act is limited and cannot be equated with a second appeal. He contended that both the Authorities have concurrently found that the landlord-respondent requires the property in question for his and his family's bonafide necessity and the said findings deserve to be upheld. It was submitted that under the Rent Act a landlord need not be the owner of the premises.
 7. Heard learned counsel for the parties and perused the paperbook.
 8. The documents attached with the revision petition show that one Romesh Manocha executed a Power of Attorney in favour of Kirpal Singh on 29.10.1986 and thereafter Kirpal Singh executed a Sub Power of Attorney in favour of the present landlord-respondent on 13.06.1994. The tenant-petitioner entered into the property in question in 2006 under the landlord-respondent on payment of rent @ Rs.1500/- per month. In para 2 of her preliminary objections raised in the written statement the tenant-petitioner candidly admitted the relationship between the parties by stating "That relationship of landlord and tenant exists between petitioner and answering respondent and rent stand paid upto 01.10.2008 and subsequent rent was sent through post but same was not accepted by the petitioner with ulterior motives".
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Thus, the relationship of landlord and tenant between the parties stands established.

9. The point canvassed by the learned counsel for the tenant/petitioner that the landlord/respondent was only a Sub Power of Attorney and could not seek ejectment for his own bonafide necessity but only for the bonafide necessity of the real owner deserves to be rejected. For the purposes of the Rent Act a person though not owner is entitled to maintain a petition for ejectment against the tenant provided it is proved that he is landlord of the premises. Under the provisions of the Rent Act the definition of 'landlord' under Section 2(c) reads as under :

“2(c) ‘Landlord’ means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorised, and, every person from time to time deriving title under a landlord.”

Thus, a landlord need not be an owner to maintain an ejectment application against a tenant. He should be entitled to receive the rent, whether for himself or for another. Infact, the definition reproduced above also makes a tenant a landlord if he has sublet a building or rented land.

10. Having noticed the definition of the term 'landlord', it will be useful to note that to claim a relief under Section 13(3)(a) of the Rent Act a person must be a landlord within the meaning of the terms in Section 2(c); his being owner of the premises is neither a pre-requisite nor a relevant factor.
11. The Apex Court in *K.D. Dewan vs. Harbhajan Singh Parihar* [2002 (1) RCR Rent 214] while dealing with personal necessity of a landlord held as under :

“15. From the above discussion it follows that such a truncated meaning of the term 'landlord' cannot be imported in clause (c) of the Section 2 of the Act having regard to the width of the language employed therein and there is no other provision in the Act to restrict its meaning for purposes of Section 13(3)(a) thereof to an owner of the premises alone. The appellant has been paying monthly rent of the premises to the respondent from 1976. The respondent is thus the landlord of the premises under the Act and is entitled to seek relief under Section 13(3)(a) of the Act. In this view of the matter, we find no illegality in the order of this High Court under challenge. The appeal is without merit and it is liable to be dismissed.”

12. In *Swadesh Kumar Gupta vs. Manohar Lal Gupta* [2006 (2) RCR Rent 503] this Court while dealing with a case where the actual owner wanted to be impleaded as a party in an ejectment application, held as under: “11. On the other hand, Mr. Sukant
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Gupta, learned counsel for the respondent vehemently contended that once the tenant had admitted him to be landlord in the premises, therefore, the petitioner was not a necessary party. He also placed reliance on the judgment of Hon'ble Supreme Court in K.D. Dewan v. Harbhajan S. Parihar, 2002(1) RCR (Rent) 214 : AIR 2002 Supreme Court 67 to contend that for the purpose of seeking eviction of a tenant for personal occupation he need not be owner of the premises. The contention of the learned counsel for the respondent was that the learned Rent Controller had rightly come to the conclusion that the learned Rent Controller has to decide the eviction petition on the basis of averments made in the rent application and the stand taken by the tenant therein. It is not open to the Rent Controller to decide about the ownership of the property especially when in the present case the tenant admit the respondent to be landlord of the premises. Therefore, the ownership of the respondent is totally immaterial. Merely because one of the grounds on the basis of which the application filed by the petitioner was not found to be correct would not automatically lead to the conclusion that the impugned order is required to be set aside.

12. I have considered the arguments raised by the learned counsel for the parties and find that the learned Rent Controller rightly came to the conclusion that the petitioner could not be impleaded as a party in the rent petition in view of the admission of the tenant that the respondent was his landlord. The Hon'ble Supreme Court has been pleased to lay down that a person though not owner is entitled to maintain the petition for ejectment against the tenant provided it is proved that he is landlord of the premises, which negatives the stand of the learned counsel for the petitioner.”

13. The decision in the case of Sheela (supra) relied upon by learned counsel for the tenant-petitioner is distinguishable and would not be applicable to the facts of the present case. The said decision was actually dealing with a case under the Madhya Pradesh Accommodation Control Act,

1961. Under Section 12(1)(f) of the Madhya Pradesh Accommodation Control Act, 1961, a claim for eviction can be maintained by an ownerlandlord and not a landlord. Moreover, Section 12(1)(f) of the Madhya Pradesh Accommodation Control Act, 1961 pertains to eviction from a nonresidential building. There is no equivalent clause in the Rent Act under which the present ejectment application was filed and the property in question in the present case is residential. Thus, under the Rent Act the landlord need not be the owner of the premises. Section 12(1)(f) of the Madhya Pradesh Accommodation Control Act, 1961 reads as under :

“12. Restriction on eviction of tenants. - (1) Notwithstanding anything to the contrary contained in any other law or contract, no suit shall be filed in any Civil Court against a tenant for his eviction from any accommodation except on one or more of the following grounds only namely :-

xxx xxx xxx

(f) that the accommodation let for non-residential purpose is required bona- fide by the landlord for the purpose of continuing or starting his business or that any of his major sons or unmarried daughters if he is the owner thereof or for any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or town concerned.”

In comparison, Section 13(3)(a) of the Rent Act, which is relevant for our purposes, reads as under :

(3)(a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -

(i) in the case of a residential building if -

- a. he requires it for his own occupation;
- b. he is not occupying another residential building in the urban area concerned; and
- c. he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;
- d. it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment: Provided that where the tenant is workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord.”

14. A perusal of the above reproduced provisions of the Madhya Pradesh Accommodation Control Act, 1961 and the Rent Act make it patent that it is the landlord who can seek eviction on the ground of personal necessity under the Rent Act. Such landlord may or may not be the owner. The argument of the counsel for the tenant-petitioner thus cannot be accepted and is rejected.
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15. Counsel for the tenant-petitioner also argued that the landlord-respondent is only a Sub Power of Attorney holder and the ground of bonafide necessity is not available to him. As already held above, under the Rent Act it is the landlord who can seek eviction on the ground of personal necessity. Such landlord may or may not be the owner. It may be mentioned here that no such defence or objection was taken by the tenant-petitioner in her written statement. There is no averment in the written statement that the landlord-respondent is a Sub Power of Attorney holder. Counsel is unable to convince this Court that a plea not raised in the written statement can be argued in a revision petition. No other point was argued.

15. In view of the above, I do not find any ground to interfere with the impugned orders. There is no illegality or irregularity in the exercise of its jurisdiction by the Authorities under the Rent Act. The present revision petition being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.