

Anand Vs. Smt. Darshna Devi and ors.

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Court : Punjab and Haryana

Decided On : Sep-16-2005

Reported in : (2006)142PLR714

Judge : Viney Mittal, J.

Appeal No. : Civil Revision No. 5091 of 2002

Appellant : Anand

Respondent : Smt. Darshna Devi and ors.

Advocate for Pet/Ap. : C.B. Goel, Adv.

Disposition : Petition allowed

Judgement :

Viney Mittal, J.

1. The tenant, Anand Kumar is the petitioner before this Court. His ejectment had been ordered by the learned Rent Controller. The order of ejectment was upheld by the learned appellate authority also.

2. Landlady Darshana Devi filed an application for the ejectment in respect of the shop in question. It was claimed by the landlady that the shop in dispute was mortgaged by Banwari Lal. After that the landlady Darshana Devi had let out the

shop to Anand Kumar, who is the adopted son of Gopi Ram on monthly rent of Rs. 230/-. Gopi Ram had died. It was pleaded by the landlady that respondent no. 1, Anand Kumar being the adopted son of Gopi Ram, there existed a relationship of landlord and tenant between the parties. The ejectment of the tenant was sought on three grounds. Firstly, it was claimed that the tenant remained in arrears of rent for a period of 20 months; secondly, it was alleged that the tenant had transferred the possession of demised premises in favour of respondents No. 2 & 3 i.e. Vinod Kumar and Subhash Chand without the consent of the landlady; thirdly, it was claimed that the tenants had committed such acts that had materially impaired the value and utility of the property in dispute.

3. At the time of filing the ejectment petition, Anand Kumar was the minor. Accordingly, he was sued through his guardian Vinod Kumar, his real father. The aforesaid Vinod Kumar was also arrayed as respondent No.2 and one Subhash Chander was arrayed as respondent No. 3. It was claimed that aforesaid respondent No. 2 & 3 were the alleged sub-lettees.

4. On the first date of hearing, the aforesaid arrears of rent along with the interest and costs, as assessed by the Rent Controller, were tendered by Subhash Chander, respondent No. 3 on behalf of the tenant, Anand Kumar as his guardian. It may be relevant to notice that the aforesaid Subhash Chander is the real maternal uncle of Anand Kumar.

5. Learned Rent controller held that since the tender had been made by a stranger and not by the tenant, therefore, the aforesaid tender was not a valid tender. On that account, the ejectment of the tenant was ordered. The tenant filed an appeal. Learned appellate authority also took up a similar view. Accordingly, the appeal filed by the tenant also failed. In these circumstances, the tenant has approached this Court through the present revision.

6. I have heard Shri C.B.Goel, learned Counsel for the tenant-petitioner.

7. Learned Counsel for the petitioner submits that the authorities below have completely ignored that the tenant Anand Kumar was a minor at the time of filing of the ejectment petition. It was in these circumstances that he was impleaded

through his guardian, Vinod Kumar (his real father). However, the tender in question was guardian, Vinod Kumar (his real father). However, the tender in question was made by Subhash Chander, the real maternal uncle of Anand Kumar. Subhash Chander while making the tender had made a statement that he was acting as guardian of the minor. Accordingly, it has been contended that the view adopted by the authorities below was wholly erroneous and by any stretch of imagination, it could not be suggested that the tender had been made by any stranger.

8. From the consideration of the facts and circumstances, I find that the contentions of the learned Counsel deserve to be accepted.

9. The perusal of the ejectment petition shows that Anand Kumar was sued as a minor. It was claimed that Gopi Ram was tenant and after he died, the tenancy was inherited by his adopted son Anand Kumar, a minor at that time. In these circumstances, once a tender had been made on behalf of his maternal uncle Subhash Chander, then no fault could be found with the said tender. It could not be held that the tender had been made by a third person or a stranger. The rulings relied upon by the learned authorities below are wholly inapplicable to the facts and circumstances of this case.

10. At this stage, it may also be noticed that all the other grounds seeking ejectment of the tenant have been rejected by the authorities below. The only ground upon which ejectment had been ordered is invalid tender, Since, I have held that the tender made on behalf of Anand Kumar was a valid tender, therefore, the orders passed by the authorities below are liable to be set aside and they are accordingly set aside.

11. As a consequence of the aforesaid discussion, the present revision petition is allowed. The orders of authorities below are set aside. Consequently, the ejectment petition filed by the landlady shall stand dismissed.

There shall be no order as to costs.