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Mangat Ram Vs. Ramesh Chander

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Court : Punjab and Haryana

Decided On : Nov-29-2002

Reported in : (2003)133PLR505

Judge : V.M. Jain, J.

Acts : East Punjab Urban Rent Restriction Act, 1949 - Sections 13(2) and 13(3); Benami Transactions (Prohibition) Act, 1948

Appeal No. : Civil Revision No. 3228 of 1995

Appellant : Mangat Ram

Respondent : Ramesh Chander

Advocate for Def. : S.C. Chhabra, Adv.

Advocate for Pet/Ap. : Ravinder Chopra, Sr. Adv. and; Gurinder Kaur, Adv.

Judgement :

V.M. Jain, J.

1. This order shall dispose of Civil Revision 3185 and Civil Revision 3228 both of 1995, as both these petitions are between the same parties and in respect of the same property and common questions of law and fact arise for determination in these revision petitions.

2. The facts, in brief, arc that on 15.6.1988, the landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the Act), seeking ejectment of Mangat Ram, tenant, from the demised premises alleging therein that Smt. Pritama Devi and her sons and daughters, were the owners of the house in question and in September, 1977, the previous owners sold a portion of the said house in favour of the applicant, Ramesh Chander and the remaining portion was retained by the previous owners. It was alleged that Mangat Ram was already a tenant on a portion of the house, which was purchased by Ramesh Chander, applicant, under the previous owners on a monthly rent of Rs. 60/- and with the sale of the said portionof the house by the previous owners in favour of Ramesh Chander, applicant, Mangat Ram had become tenant under the applicant on the same terras and conditions. It was alleged that there existed a relationship of landlord and tenant between the parties. It was alleged that Ramesh Chander, applicant, did not want to keep Mangat Ram as his tenant under the demised premises because the applicant bonafide required the demised premises for his own use and occupation. It was alleged that at present the applicant was in possession of only one room on the ground floor and two rooms on the first floor, besides kitchen, bathroom and varandah and that it was insufficient to meet his requirements and the requirements of his family, which consisted of the applicant himself, his wife, his widowed mother, his aunt (dependent upon the applicant) and children including married daughters, who visit him frequently. The said petition was contested by Mangat Ram, tenant, denying the existence of the relationship of landlord and tenant between the parties. It was alleged that even though the demised premises were purchased by the applicant in his name, yet he (Mangat Ram) had contributed equally in its price and registration expenses, as per mutual compromise dated 11.9.1997. It was alleged that in fact he (Mangat Ram) was not residing in the demised premises as tenant but was a co-sharer and co-owner. It was alleged that the rate of rent, charged by the previous owner was Rs. 17/- per month, but the applicant had managed to get wrong record of assessment prepared in connivance with the officials of the cantonment board. It was denied that he was a tenant over the demised premises and it was alleged that infact he was a co-sharer and co-owner and as per compromise dated 11.9.1977, he had

paid half the price and registration expenses for the purposes of the demised premises, even though the sale deed had been executed in favour of the applicant exclusively. It was alleged that it was mutually agreed between the parties that Mangat Ram would be entitled to get his 1/2 share in the house, get it partitioned, transferred and mutated in his name through the court. Various issues were framed by the Rent Controller.

3. After hearing both the sides, the learned Rent Controller found that there existed relationship of landlord and tenant between the parties. It was further held that the applicant, Ramesh Chander required the demised premises bonafide for his personal use and occupation, Resultantly the order of ejectment was passed by the learned Rent Controller in favour of Ramesh Chander and against Mangat Ram. Aggrieved against the order of the learned Rent Controller, Mangat Ram filed appeal. The learned Appellate Authority dismissed the appeal of Mangat Ram, upholding the findings of the learned Rent Controller that there existed relationship of landlord and tenant between the parties and the Mangat Ram was liable to be ejected from the demised premises, on the ground of bonafide personal requirement of Ramesh Chander, landlord. Aggrieved against the same, Mangat Ram, tenant filed Civil Revision No. 3185 of 1995 in this Court, which was admitted and eviction of the petitioner-tenant was stayed.

4. During the pendency of the aforesaid ejectment petition, Ramesh Chander, landlord, filed another petition under Section 13 of to Act, seeking ejectment of Mangat Ram, tenant from the demised premises on the ground of non-payment of rent, It was alleged that the rate of rent was Rs. 60/- per month and that the tenant had neither paid nor tendered the rent w.e.f. 1.6.1988. The said petition was contested by Mangat Ram tenant, by filing written statement, taking up similar pleas as were taken by him in the previous petition and that the rate of rent was Rs. 17/- per month and not Rs. 60/- per month, as claimed. It was further alleged that since he was in possession of the demised premises as co-owner, there was no occasion for Ramesh Chander to file ejectment petition. On the pleadings of the parties, various issues were framed.

5. After hearing both the sides, the learned Rent Controller found that there existed relationship of landlord and tenant between the parties and the Mangat Ram, tenant, was liable to be ejected from the demised premises, on the ground of non-payment of rent. It was held that the rate of rent was Rs. 17/- per month and that Mangat Ram, tenant, had not paid the arrears of rent even @ Rs. 17/- per month w.e.f. June, 1988 and as such, hewas liable to be ejected from the demised premises, on the ground of non-payment of rent. The appeal, filed by Mangat Ram, was dismissed by the appellate authority upholding the findings of the learned Rent Controller. Aggrieved against the same Mangat Ram, tenant filed Civil Revision No. 3228 of 1995 in this Court. The said revision petition was admitted and was ordered to be heard alongwith the other Civil Revision between the parties, referred to above.

6. I have heard learned counsel for the parties in both these petitions and have gone through the record carefully.

7. Learned counsel for the petitioner-tenant submitted before me that no order for ejectment of the petitioner-tenant could be passed on the ground of non-payment of rent, in view of the latest law laid down by the Hon'ble Supreme Court in the case reported as Rakesh Wadhawan and Ors. v. Jagdamba Industrial Corporation and Ors., (2002-2)131 P.L.R, 370 (S.C.). On the other hand, learned counsel for the respondent-landlord submitted before me that the order of ejectment had been passed not only on the ground of non-payment of rent, but also on the ground of bonafide personal necessity of the landlord. It was submitted that the order of ejectment be passed against the petitioner-tenant on the ground of personal necessity and order of ejectment may not be passed against him on the ground of non-payment of rent.

8. After hearing learned counsel for the parties and perusing the record, in my opinion, no fault could be found with the order of ejectment passed by the Courts below in the earlier petition dated 15.6.1988 under Section 13 of the Act, filed by Ramesh Chander for the ejectment of Mangat Ram tenant, from the demised premises, on the ground of personal necessity. I am further of the opinion that the order of ejectment is not required to be passed against Mangat Ram, tenant, on

the ground of non-payment of rent in the subsequent petition, filed by Ramesh Chander landlord against Mangat Ram, tenant on 6.6.1991 under Section 13 of the Act.

9. In the earlier petition dated 15.6.1988 filed by Ramesh Chander, tenant, it was specifically alleged that there was relationship of landlord and tenant between the parties on account of the fact that Ramesh Chander had purchased a portion of the house in question from the previous owners and that Mangat Ram was a tenant in a portion of the said house, which was purchased by Ramesh Chander from the previous owners. The plea, taken by Mangat Ram, tenant, in the written statement, filed by him to the said ejectment petition was that intact he was a co-owners/co-sharer with Ramesh Chander in a portion of the property purchased by Ramesh Chander, from the previous owners and as such there was no relationship of landlord and tenant between the parties, However, Mangat Ram tenant, miserably failed to prove these allegations, made by him that he was a co-owner/co-sharer with Ramesh Chander in the house in question, purchased by Ramesh Chander. Besides producing oral evidence in the form of testimony of AW1. Hari Kishan (previous owner) and AW2, Ramesh Chander (present owner), the sale deed, Ex.A2, was also produced on the record, showing that the previous owners had sold the house in question to Ramesh Chander and that by virtue of the said deed, Ramesh Chander had become the owner of the said house. The learned Rent Controller after considering the entire evidence, led by the parties, found that Mangat Ram, tenant, had miserably failed to prove that he had any share in the house in question alongwith Ramesh Chander, landlord, or that he was in possession of the house in question as co-owner/co-sharer. It was found that Mangat Ram, tenant had miserably failed to prove the alleged compromise, Ex.R1, between him and Ramesh Chander and as such, it could not be held that Mangat Ram had a share in the house in question alongwith Ramesh Chander, at the time of its purchase. It was also found that the plea regarding Mangat Ram having become the co-owner/co-sharer of the house in question alongwith Ramesh Chander by way of benami transaction, could not be allowed to be raised by Mangat Ram, in view of the provisions of Benami Transactions (Prohibition of the right to recover property) Ordinance, 1988 which was subsequently converted into an Act. In myopinion, the findings given by the learned Rent Controller and

upheld by the learned Appellate Authority, that Mangat Ram, tenant, had failed to prove the execution of the compromise Ex.R1 are the findings of fact based on evidence and did not call for any interference by this Court in the exercise of its powers of revision. This is especially so when the learned counsel for the petitioner-tenant could not point out any illegality or impropriety in the orders of the Courts below, while coming to the aforesaid conclusion.

10. In this view of the matter, in my opinion, it stands proved on the record that there was relationship of landlord and tenant between the parties.

11. With regard to the personal necessity being a ground for ejectment, in my opinion, both the Courts below found it as a fact that Ramesh Chander-landlord required the premises bonafide for his personal use and occupation, considering that the existing accommodation with Ramesh Chander landlord was insufficient for his requirement. The findings given by the Courts below, regarding the personal necessity are based on evidence led by the parties and do not call for any interference by this Court, in the exercise of its revisional jurisdiction. This is especially so when both the Courts below had considered the entire evidence, led by the parties and had found it as a fact that the existing accommodation with Ramesh Chander landlord was insufficient. It was found that Ramesh Chander landlord and his wife had five daughters out of whom three were married and their husband and children frequently used to visit them and besides that they had two un-married grown-up daughters and an un-married son, who were likely to be married in the near future. It was also found that these facts were admitted by Mangat Ram, tenant, during cross-examination. In this view of the matter in my opinion, the Courts below rightly found that Ramesh Chander, landlord required the premises for his personal necessity especially when the learned counsel for the petitioner-tenant could not point out any illegality or impropriety in the findings of the Courts below, in this regard.

12. In view of my detailed discussion above, I find no merit in the revision petition bearing Civil Revision No. 3185 of 1995. Accordingly the same is hereby dismissed.

13. With regard to Civil Revision No. 3228 of 1995, it is not necessary to decide the question regarding the ejectment of the tenant from the demised premises, on the ground of non-payment of rent, especially when the ejectment of the tenant from the demised premises ordered by the Courts below has been upheld by this Court, in Civil Revision No. 3185 of 1995. Accordingly, Civil Revision No. 3228 of 1995 stands disposed of inasmuch as the tenant shall not be ejected from the demised premises on the ground of no-payment of rent especially when order of ejectment has already been passed against him from the demised premises, on the ground of bonafide personal necessity.

14. The petitioner-tenant is given two months time, from today to vacate the demised premises.

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